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TITLE 3—THE PRESIDENT

PROCLAMATION 2925

ENLARGING THE LAVA BEDS NATIONAL MONUMENT CALIFORNIA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS certain lands adjacent to the Lava Beds National Monument in the State of California, established by Proclamation No. 1755 of November 21, 1925, contain cliffs with petroglyphic carvings from a prehistoric period; and

WHEREAS a large cinder cone, important to the geologic interpretation of the Lava Beds National Monument, is partially outside the present boundaries of the monument; and

WHEREAS it appears that the public interest would be promoted by adding the lands described in the preceding paragraphs to the Lava Beds National Monument in order to insure permanent protection to these prehistoric and geologic phenomena:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, under and by virtue of the authority vested in me by section 2 of the act of June 8, 1906, 34 Stat. 225 (16 U. S. C. 431), do proclaim that, subject to valid existing rights, the lands within the following-described areas in California owned by the United States are hereby added to and reserved as a part of the Lava Beds National Monument, and that the privately-owned lands within such areas shall become a part of such monument upon the acquisition of title thereto by the United States:

MOUNT DIABLO MERIDIAN

T. 46 N., R. 5 E.,
Sec. 3, lots 9, 10, and 32;
Sec. 10, lots 1, 2, 4, 11, 12, 20, and 21, and N½NW¼SE¼
T. 44 N., R. 4 E.,
Sec. 6, N½ of lot 1.

The areas described aggregate 211.13 acres.

The reservation made by this proclamation is not intended to prevent the use of the lands in T. 44 N., R. 4 E., for national-forest purposes for which they were reserved by the proclamation establishing the Shasta National Forest, and both reservations shall be effective on such lands, but the reservation for the national-monument purposes shall be the dominant reservation and any use of the lands which interferes with their preservation or protection as a part of the national monument is hereby forbidden.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy, deface, or remove any feature of this monument as hereby extended and not to settle upon any of the lands reserved as a part of this monument.

The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management, and control of these lands as provided in the act of Congress entitled "An Act to establish a National Park Service, and for other purposes," approved August 25, 1916 (39 Stat. 535, 16 U. S. C. 1–3), and acts supplementary thereto or amendatory thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 27th day of April in the year of our Lord nineteen hundred and [SEAL] fifty-one and of the Independence of the United States of America the one hundred and seventy-fifth.

HARRY S. TRUMAN

By the President:

DEAN ACHESON,
Secretary of State.

[F. R. Doc. 51-5013; Filed, Apr. 30, 1951; 1:51 p. m.]

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

REORGANIZATION PLAN NO. 1 OF 1951

Prepared by the President and Transmitted to the Senate and the House of Representatives in Congress Assembled, February 19, 1951, Pursuant to the Provisions of the Reorganization Act of 1949, Approved June 20, 1949 [1]

RECONSTRUCTION FINANCE CORPORATION

Correction

In Federal Register Doc. 51-5070 appearing at page 3690 of the issue for Tuesday, May 1, 1951, footnote 1 should read as follows:

[1] Effective May 1, 1951, under the provisions of section 6 of the act; published pursuant to section 11 of the act (Pub. Law 109, 81st Cong.)

RULES AND REGULATIONS

TITLE 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

Subchapter B—Farm Ownership Loans

PART 311—BASIC REGULATIONS

SUBPART B—LOAN LIMITATIONS

AVERAGE VALUES OF FARMS AND INVESTMENT LIMITS; GEORGIA

For the purposes of title I of the Bankhead-Jones Farm Tenant Act, as amended, the average value of efficient family-type farm-management units and the investment limit for the county identified below are determined to be as herein set forth. The average value and the investment limit heretofore established for said county, which appear in the tabulations of average values and investment limits under § 311.30, Chapter III, Title 6 of the Code of Federal Regulations (13 F. R. 9381), are hereby superseded by the average value and the investment limit set forth below for said county.

GEORGIA

County	Average value	Investment limit
Brantley	$9,000	$9,000

(Sec. 41, 60 Stat. 1066; 7 U. S. C, 1015. Interprets or applies secs. 3, 44, 60 Stat. 1074, 1069; 7 U. S. C. 1003, 1018)

Issued this 26th day of April 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-5037; Filed, May 1, 1951; 8:48 a. m.]

PART 311—BASIC REGULATIONS

SUBPART B—LOAN LIMITATIONS

AVERAGE VALUES OF FARMS AND INVESTMENT LIMITS; GEORGIA

For the purposes of title I of the Bankhead-Jones Farm Tenant Act, as amended, average values of efficient family-type farm-management units and investment limits for the counties identified below are determined to be as herein set forth; and § 311.30, Chapter III, Title 6 of the Code of Federal Regulations (13 F. R. 9381), is amended by adding said counties, average values, and investment limits to the tabulations appearing in said section under the State of Georgia.

GEORGIA

County	Average value	Investment limit
Camden	$8,500	$8,500
Charlton	12,000	12,000
Chatham	12,000	12,000

(Sec. 41, 60 Stat. 1066; 7 U. S. C. 1015. Interprets or applies secs. 3, 44, 60 Stat. 1074, 1069; 7 U. S. C. 1003, 1018)

Issued this 26th day of April 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-5038; Filed, May 1, 1951; 8:49 a. m.]

PART 311—BASIC REGULATIONS

SUBPART B—LOAN LIMITATIONS

AVERAGE VALUES OF FARMS AND INVESTMENTS LIMITS; WISCONSIN

For the purposes of title I of the Bankhead-Jones Farm Tenant Act, as amended, average values of efficient family-type farm management units and investment limits for the counties identified below are determined to be as herein set forth. The average values and investment limits heretofore established for said counties, which appear in the tabulations of average values and investment limits under § 311.30, Chapter III, Title 6 of the Code of Federal Regulations (13 F. R. 9381), are hereby superseded by the average values and investment limits set forth below for said counties.

WISCONSIN

County	Average value	Investment limit
Adams	$14,000	$12,000
Ashland	11,000	11,000
Barron	16,000	12,000
Bayfield	11,000	11,000
Brown	18,000	12,000
Buffalo	16,000	12,000
Burnett	14,000	12,000
Calumet	20,000	12,000
Chippewa	16,000	12,000
Clark	15,000	12,000
Columbia	20,000	12,000
Crawford	18,000	12,000
Dane	21,000	12,000
Dodge	20,000	12,000
Door	18,000	12,000
Douglas	11,000	11,000
Dunn	16,000	12,000
Eau Claire	16,000	12,000
Florence	11,000	11,000
Fond du Lac	20,000	12,000
Forest	11,000	11,000
Grant	21,000	12,000
Green	21,000	12,000
Green Lake	20,000	12,000
Iowa	21,000	12,000
Iron	11,000	11,000
Jackson	15,000	12,000
Jefferson	21,000	12,000
Juneau	14,000	12,000
Kenosha	21,000	12,000
Kewaunee	18,000	12,000
La Crosse	18,000	12,000
Lafayette	21,000	12,000
Langlade	15,000	12,000
Lincoln	14,000	12,000
Manitowoc	20,000	12,000
Marathon	15,000	12,000
Marinette	14,000	12,000
Marquette	14,000	12,000
Milwaukee	21,000	12,000
Monroe	15,000	12,000
Oconto	14,000	12,000
Oneida	14,000	12,000
Outagamie	18,000	12,000
Ozaukee	20,000	12,000
Pepin	16,000	12,000
Pierce	16,000	12,000
Polk	15,000	12,000
Portage	15,000	12,000
Price	11,000	11,000
Racine	21,000	12,000
Richland	18,000	12,000
Rock	21,000	12,000
Rusk	14,000	12,000
Saint Croix	16,000	12,000
Sauk	18,000	12,000
Sawyer	11,000	11,000
Shawano	15,000	12,000
Sheboygan	20,000	12,000
Taylor	14,000	12,000
Trempealeau	16,000	12,000
Vernon	18,000	12,000
Vilas	11,000	11,000
Walworth	21,000	12,000
Washburn	14,000	12,000
Washington	20,000	12,000
Waukesha	21,000	12,000
Waupaca	15,000	12,000
Waushara	14,000	12,000
Winnebago	20,000	12,000
Wood	15,000	12,000

(Sec. 41, 60 Stat. 1066; 7 U. S. C., 1015. Interprets or applies secs. 3, 44, 60 Stat. 1074, 1069; 7 U. S. C., 1003, 1018)

Issued this 26th day of April 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-5039; Filed, May 1, 1951; 8:49 a. m.]

Subchapter E—Account Servicing

PART 361—ROUTINE

SUBPART E—SERVICING ACCOUNTS OF BORROWERS ENTERING THE ARMED FORCES

Part 361 of Title 6, Code of Federal Regulations (13 F. R. 9436), is hereby amended to add Subpart E as follows:

Sec.
361.81 General.
361.82 Operating loan borrowers.
361.83 Farm Ownership and Farm Housing borrowers.

AUTHORITY: §§ 361.81 to 361.83 issued under sec. 41, 60 Stat. 1066, sec. 510, 63 Stat. 438; 7 U. S. C. 1015, 42 U. S. C. 1480. Interpret or apply secs. 41, 48, 60 Stat. 1065, 1066, 1070, sec. 510, 63 Stat. 437; 7 U. S. C. 1015, 1022, 42 U. S. C. 1480.

DERIVATION: §§ 361.81 to 361.83 contained in FHA Instruction 451.5.

§ 361.81 *General.* Section 48 of the Bankhead-Jones Farm Tenant Act, as amended, requires annual payments of installments on loans made under Title I and Title II of the act. This provision prohibits an agreement with the borrower for the postponement or modification of the annual installments due under his promissory note, but it is not the policy of the Farmers Home Administration to enforce scheduled payments by a borrower in the armed forces when such payments are beyond his ability to pay.

§ 361.82 *Operating loan borrowers*—(a) *Policy.* An Operating loan borrower entering the armed forces will be permitted to retain his security property when arrangements can be worked out which will be satisfactory to the borrower and the Farmers Home Administration. However, because of the nature of security for Operating loans, such a borrower will be informed of the usual depreciation of such security property and will be encouraged to sell the property and apply the proceeds on his loan(s). In most cases, the interests of both the borrower and the Government can be served better by arranging for a voluntary sale of the security property. A borrower retaining security property will be expected to make payments on his loan(s) equal to scheduled payments.

(b) *Methods of handling.* In carrying out the above policy, the cases of borrowers entering the armed forces will be handled in accordance with one of the following methods:

(1) *Voluntary sale of security property.* When it is determined that the security property will be liquidated, the borrower will be urged to sell the property through the use of Form FHA-851, "Statement of Conditions on which Lien will be Released," for a private sale, or Form FHA-217, "Agreement for Public Sale," for a public sale. If for any reason it is more desirable or necessary for the property to be sold by the Farmers Home Administration, the sale will be through the use of Form FHA-209, "Agreement for Voluntary Liquidation of Mortgaged Chattels," executed by the borrower (i) before he is accepted for service in the armed forces if the sale is to be completed before the borrower is accepted for service, or (ii) after he is accepted for service if the sale cannot be completed before the borrower is so accepted. For this purpose, an individual will be considered as accepted for service after he is ordered to report for induction, or if in the enlisted reserve, after he is ordered to report for service in the armed forces.

(2) *Assumption of indebtedness.* When the borrower arranges with a person satisfactory to the Farmers Home Administration to purchase the security property and to assume the Operating loan indebtedness secured thereby, the State Director is authorized to approve an assumption agreement for this purpose between the borrower, the person assuming the debt, and the Farmers Home Administration. In such a case, the original borrower will not be released from liability.

(3) *Arrangements with third persons.* When the borrower arranges with a relative or other reliable person to maintain the security property in a satisfactory manner and to make scheduled payments, the State Director is authorized to approve the arrangement. In such a case, the borrower will be required to execute a power of attorney, prepared or approved by the representative of the Office of the Solicitor, authorizing an attorney-in-fact to act for him during his absence.

(c) *Statements of accounts.* Borrowers entering the armed forces will be requested to designate mailing addresses for statements of account.

§ 361.83 *Farm Ownership and Farm Housing borrowers*—(a) *Power of attorney.* Farm Ownership and Farm Housing borrowers entering the armed forces who retain ownership of their farms should be encouraged to execute a power of attorney authorizing the person of their choice to take any actions necessary to insure proper operation and maintenance of the farm, payment of insurance and taxes, and repayment of the loan. No employee of the Farmers Home Administration will act as attorney-in-fact for a borrower. A power of attorney should not be used in conveying title to the farm except in those States where the power is good until actual notice is received of the death of the person granting the power.

(b) *When the borrower wishes to retain ownership of the farm.* When a borrower wishes to retain ownership of his farm, the Farmers Home Administration will assist him in making arrangements for the operation of the farm which will protect the interests of both the Government and the borrower.

(1) *Leasing.* It will be more satisfactory if the farm is leased under a written

lease in accordance with equitable leasing policies and applicable Farmers Home Administration procedures. The County Supervisor should assist the borrower in securing a dependable tenant who is a good farmer, who will secure maximum production, and who will maintain the farm in good condition. The borrower should make arrangements for the rental income to be used for regular payments on the loan in order to avoid the accumulation of unpaid interest. The borrower also should make arrangements for the payment of taxes and insurance and maintenance of the farm to avoid having these charges paid by the Government and charged to his account. It would be desirable to provide that the lease will continue for the duration of the borrower's military service, unless either party gives written notice of earlier cancellation of the lease. In the case of an insured Farm Ownership loan, it is necessary under the terms of the security instrument to obtain the consent of the holder of the insured mortgage when the farm is leased.

(2) *Operation by family.* When the farm is to be operated by relatives, the hazards and disadvantages to the borrower and the Government which are inherent in unwritten contracts will be discussed, and every effort will be made to induce the borrower to enter into formal contractual arrangements whenever possible to do so.

(c) *When the borrower does not desire to retain ownership of the farm.* When a borrower feels that the burden of managing the farm and continuing with payment of the indebtedness will be too great for him and his family, he may wish to transfer the farm to another approved applicant or to sell it outside the program. In any such case, the Farmers Home Administration will cooperate with the borrower in effecting a sale or transfer of the farm in accordance with applicable procedures.

(d) *Contribution agreements in cases of section 503 Farm Housing borrowers—*(1) *When the borrower desires to retain ownership of the farm.* Whenever a section 503 Farm Housing borrower plans to retain ownership of his farm and have it operated by his family or a dependable tenant, the borrower will be required, as a condition to continuation of the contribution agreement, to give the farm operator or other competent person a power of attorney authorizing the attorney-in-fact to agree on behalf of the borrower to a farm plan for each forthcoming year of the period covered by the contribution agreement and to execute on behalf of the borrower Form FHA–528, "Annual Income Return," for each such year. In each such case, for the purpose of determining whether a contribution credit is justified for any given year, consideration will be given to the borrower's entire income from the farm and all other sources. Therefore, if the attorney-in-fact is to execute Form FHA–528 under his power of attorney, he will be required to obtain a signed statement from the borrower as to his nonfarm income for the year under consideration and to submit the statement with Form FHA–528.

(i) *Leasing.* Where the mortgage prohibits transfer of the farm or any interest therein without the Government's consent, consent to a lease will be given or withheld by the State Director after considering the facts of the case. If, in such a case, the State Director does not consent to the lease, he will give written notice to the borrower and the lessee that the contribution will be inoperative for the duration of the lease. In a case where the transfer of an interest in the property is not subject to the Government's consent, a determination will be made by the State Director as to whether, under the terms of the lease, the benefits of the contribution agreement will accrue to the lessee. If the benefits will accrue to the lessee, a further determination will be made by the State Director as to whether it would be proper in all the circumstances for the lessee to receive the benefits of the contribution agreement. If the decision is in favor of having the benefits accrue to the lessee, the contribution agreement will remain in effect. If the decision is not in favor of having the benefits accrue to the lessee, the contribution agreement will be declared inoperative by the State Director for the duration of the lessee's tenure and written notice to that effect will be sent to the borrower and to the lessee.

(2) *When the borrower does not desire to retain ownership of the farm.* When a section 503 Farm Housing borrower desires to transfer his farm subject to the Farm Housing mortgage, a determination will be made as to whether the proposed transfer is to be made to a person eligible for a section 503 loan. If such a transfer is to be made to a person who is not eligible, the contribution agreement will be canceled. If the farm and the loan are to be transferred to an eligible borrower, the Government and the transferee will execute an agreement conferring upon him the rights and obligations of the original borrower under the contribution agreement.

(e) *Statements of account.* Borrowers entering the armed forces who retain ownership of their farms will be requested to designate mailing addresses for statements of account.

Dated: April 9, 1951.

[SEAL] DILLARD B. LASSETER,
Administrator,
Farmers Home Administration.

Approved: April 26, 1951.

CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51–5040; Filed, May 1, 1951; 8:49 a. m.]

TITLE 7—AGRICULTURE

Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices), Department of Agriculture

Subchapter C—Regulations and Standards Under the Farm Products Inspection Act

PART 70—GRADING AND INSPECTION OF POULTRY AND DOMESTIC RABBITS AND EDIBLE PRODUCTS THEREOF; UNITED STATES SPECIFICATIONS FOR CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

MISCELLANEOUS AMENDMENTS

On April 21, 1951, a notice of a proposed amendment to the regulations governing the grading and inspection of poultry and domestic rabbits and edible products thereof; and United States specifications for classes, standards, and grades with respect thereto (7 CFR Part 70) was published in the FEDERAL REGISTER (16 F. R. 3488), pursuant to the authority contained in the Agricultural and Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.) and the Department of Agriculture Appropriation Act, 1951, (Pub. Law 759, 81st Cong., approved Sept. 6, 1950). The regulations currently provide that on and after May 1, 1951, only dressed poultry and dressed domestic rabbits which were produced in official plants may be brought into other official plants for processing under grading or inspection service. The amendment hereinafter set forth will permit processors who are operating under the services provided in the aforesaid regulations to bring into their official plants such dressed poultry as is owned by them prior to July 1, 1951, for further processing under inspection service or grading service. The amendment will extend until July 1, 1951, the period of exemption of dressed poultry and dressed domestic rabbits, as such, from the provisions of §§ 70.16 and 70.17 of the regulations. It will also provide authority for the Administrator to grant conditional approval to processing plants as official plants under emergency conditions of restricted availability of facilities, construction materials, and equipment provided suitable sanitary practices are employed to effect adequate sanitation in such plants. This amendment is deemed necessary because of the shortage of materials needed to bring poultry processing plants into compliance with § 70.16 of the regulations and to provide a supply of dressed poultry which is eligible for processing under the regulations immediately following the effective date of this amendment so that the services may be continued without interruption.

The poultry processing trade has requested the proposed extension to enable poultry dressing plants to complete the requisite changes in facilities without undue hardship, and no written data, views, or arguments were submitted during the period prescribed therefor in the

notice of proposed rule making, for consideration by the Department with respect to this action.

Therefore it is deemed impracticable, unnecessary, and contrary to the public interest to give a 30-day notice of the effective date hereof, because (1) those plants which are currently operating under the services provided for in the aforesaid regulations will not be able to continue to operate without interruption or hardship unless relieved from the present requirement which would become effective May 1, 1951; and (2) in view of the current scarcity of necessary materials, the poultry dressing plants need additional time for compliance; and (3) a proposed general revision of the aforesaid regulations is currently being processed, wherefore, it has been determined that the amendment set forth herein be made effective upon the date of publication in the FEDERAL REGISTER.

1. The regulations are hereby amended by revising the heading and provisions of § 70.3 (h) *Exemption for one year from the provisions of § 70.16 and § 70.17* to read as follows:

§ 70.3 *Grading and inspection programs and services.* * * *

(h) *Exemption from the provisions of § 70.16 and § 70.17.* The provisions of §§ 70.16 and 70.17 shall not become applicable to the production of dressed poultry and dressed domestic rabbits, as such, until July 1, 1951. Prior to July 1, 1951, dressed poultry and dressed domestic rabbits which have been produced in other than official plants may be brought into official plants for grading, inspection, or processing thereof. On and after July 1, 1951, except with respect to dressed poultry which is owned by the applicant prior to that date, only dressed poultry and dressed domestic rabbits from an official plant may be brought into another official plant for grading, inspection, or processing thereof.

2. Revise the provisions of § 70.4 (e) (3) *Final survey and plant approval* to read as follows:

§ 70.4 *Application for inspection service or grading service.* * * *

(e) *Application for inspection service or grading service in official plants; approval.* * * *

(3) *Final survey and plant approval.* Prior to the inauguration of the grading service, or inspection service, a final survey of the plant and premises shall be made by the regional supervisor or his assistant to determine if the plant is constructed and facilities are installed in accordance with the approved drawings and the regulations in this part. The plant may be approved only when these requirements have been met, except that conditional approval for a specified limited time may be granted only under emergency conditions of restricted availability of facilities and construction materials, provided practices suitable to the Administrator are employed to effect adequate sanitary conditions in the plant.

(Sec. 205, 60 Stat. 1090, Pub. Law 759, 81st Cong.; 7 U. S. C. 1624)

Issued in Washington, D. C., this 30th day of April 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture,

[F. R. Doc. 51-5116; Filed, May 1, 1951; 9:22 a. m.]

Chapter III—Bureau of Entomology and Plant Quarantine, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

PART 319—FOREIGN QUARANTINE NOTICES

REVOCATION OF QUARANTINES PROHIBITING IMPORTATION OF BANANA PLANTS AND PORTIONS THEREOF EXCEPT THE FRUIT AND PROHIBITING INTERSTATE MOVEMENT OF BANANA PLANTS AND PORTIONS THEREOF FROM HAWAII AND PUERTO RICO

Notice of proposed rule making was published on February 1, 1951, in the FEDERAL REGISTER (16 F. R. 934) pursuant to section 4 (a) of the Administrative Procedure Act (5 U. S. C. 1003 (a)) regarding the revocation of the quarantine prohibiting the importation, from all foreign countries and localities into the United States, of any variety of banana plants (Musa spp.) or portions thereof, except the fruit (7 CFR 319.31), and also regarding the revocation of the quarantine prohibiting the movement, from Hawaii and Puerto Rico into or through any other State, Territory, or District of the United States, of all species and varieties of banana plants (Musa spp.) or portions thereof (7 CFR 301.32). After consideration of all relevant matter presented, the Secretary of Agriculture hereby revokes, effective May 2, 1951, the said quarantine designated as 7 CFR 319.31 and the said quarantine designated as 7 CFR 301.32.

Inasmuch as these revocations relieve restrictions heretofore imposed, they are within the exception in section 4 (c) of the Administrative Procedure Act and may properly be made effective less than 30 days after their publication in the FEDERAL REGISTER.

(Secs. 7, 8, 37 Stat. 317, 318, as amended; 7 U. S. C. 160, 161)

Done at Washington, D. C., this 26th day of April 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-5036; Filed, May 1, 1951; 8:48 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter VIII—Office of Housing Expediter

[Controlled Housing Rent Reg., Amdt. 373]

[Controlled Rooms in Rooming Houses and Other Establishments Rent Reg., Amdt. 368]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

MARYLAND

Amendment 373 to the Controlled Housing Rent Regulation (§§ 825.1 to 825.12) and Amendment 368 to the rent regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92). Said regulations are amended in the following respect:

Schedule A, Item 139, is amended to describe the counties in the Defense-Rental Area as follows:

City of Baltimore; Counties of Baltimore and Harford; in Cecil County, Election District 3, containing the City of Elkton; Howard County, except Election Districts 3, 4 and 5; and Anne Arundel County, except Election Districts 1, 7 and 8.

This decontrols Carroll County, Maryland, a portion of the Baltimore, Maryland, Defense-Rental Area in accordance with the provisions of section 204 (j) (2) of the Housing and Rent Act of 1947, as amended.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1894.)

This amendment shall be effective May 2, 1951.

Issued this 27th day of April 1951.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 51-5061; Filed, May 1, 1951; 8:52 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter III—Office of Price Stabilization, Economic Stabilization Agency

[Ceiling Price Regulation 1, Amdt. 2]

CPR 1—NEW PASSENGER AUTOMOBILES

EXTENSION OF REGULATION AND MISCELLANEOUS AMENDMENTS

Pursuant to the Defense Production Act of 1950 (Public Law 774, 81st Congress), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency Order No. 2 (16 F. R. 738), this Amendment 2 to Ceiling Price Regulation 1 (15 F. R. 9061) is hereby issued.

STATEMENT OF CONSIDERATIONS

Ceiling Price Regulation 1, as originally issued on December 18, 1950, established manufacturers' ceiling prices for new passenger automobiles at the December 1, 1950, level. At that time the regulation was to remain in effect for a period ending March 1, 1951. On March 1, 1951, Amendment 1 to the Regulation was issued. By the terms of this Amendment Ceiling Price Regulation 1 was to remain in effect for a period ending May 1, 1951.

On April 21, 1951, Mr. Eric Johnston, Economic Stabilization Administrator, directed the Office of Price Stabilization that, "The basic policy shall be to allow no price increases above the level set by interim regulations except to the minimum extent required by law, or for exceptional reasons of public policy." Mr. Johnston further directed that, "The basic standard reflecting the minimum requirement of law (apart from certain farm and food commodities) shall be as follows:

(1) The level of price ceilings for an industry shall normally be considered

"generally fair and equitable" under the Defense Production Act if the dollar profits of the industry amount to 85 percent of the average for the industry's best three years during the period 1946–1949, inclusive. The profits should be figured before federal income and excess profits taxes and after normal depreciation only, with adjustments made for any changes in net worth.

Therefore, until sufficient data is obtained to enable this Agency to establish ceiling prices for the automobile manufacturing industry in accordance with this Directive, ceiling prices for the automobile manufacturing industry will remain frozen at present levels.

The National Production Authority, on April 1, 1951, issued an amendment to Order M–2 which prohibited automobile manufacturers from equipping new automobiles with spare tires and tubes. This amendment provides the method the manufacturer must use in determining the amount by which he must reduce his ceiling prices to compensate for the elimination of such standard equipment. Where the manufacturer had a standard charge for such equipment on December 1, 1950, he must deduct that charge from his net price for the automobile complete with standard equipment on that date. Where the manufacturer had no charge for such equipment in effect on December 1, 1950, he determines his standard charge for the equipment eliminated by increasing his reduction in cost because of the elimination of the standard equipment by the same percentage markup he applied on December 1, 1950, to his cost of the entire automobile, less general administrative and selling expense. As to eliminated standard equipment for which the manufacturer had a standard charge in effect on December 1, 1950, this method will continue the manufacturer's December 1, 1950, practice. As to eliminated standard equipment for which the manufacturer had no standard charge in effect on December 1, 1950, ceiling prices determined in this manner will result in the manufacturer's receiving no more than the same markup on manufacturing cost than he did before the equipment was eliminated.

The invoicing provisions of the regulation have been amended to require the manufacturer to show separately on his invoice, an amount equal to the net price (f. o. b. factory) in effect on February 28, 1951, less the actual amount of the reduction in this net price resulting from the removal of standard equipment, and the amount of any increase in price permitted under this regulation since February 28, 1951. This has been done in order to facilitate computation by new car dealers of their ceiling prices.

AMENDATORY PROVISIONS

Ceiling Price Regulation 1 is amended in the following respects:

1. Section 4 (b) (1) is amended to read as follows:

(1) The ceiling price established by paragraph (a) of this section shall include all equipment that was standard for each make and model on December 1, 1950, or, if the ceiling price is established on the basis of a counterpart model in the previous line, the equipment that was standard for such counterpart model. In the event that a new automobile is sold without such standard equipment, the ceiling price shall be determined as follows: The manufacturer shall first determine the net price (f. o. b. factory) which he had in effect to a purchaser of the same class on December 1, 1950, for the same make and model, or if the manufacturer has brought out a new line since December 1, 1950, or brings out a new line thereafter, the net price (f. o. b. factory) which the manufacturer had in effect to the same class of purchaser on December 1, 1950, for the counterpart model in the previous line. The manufacturer shall then deduct from his net price the standard charge he had in effect on December 1, 1950, to a purchaser of the same class, for any standard equipment which has been eliminated. The manufacturer shall then multiply this reduced net price by 103.5 percent. The result will be his ceiling price. If the manufacturer had no standard charge in effect on December 1, 1950, to a purchaser of the same class, for the standard equipment which has been eliminated, he shall determine his standard charge as follows:

(i) The manufacturer shall first determine the net price he had in effect on December 1, 1950, for sale of the automobile with the standard equipment to the same class of purchaser.

(ii) He shall then divide this price by his cost, exclusive of general selling and administrative expense, of the complete automobile as of December 1, 1950.

(iii) He shall then multiply the quotient obtained in subdivision (ii) of this subparagraph by his cost of the eliminated standard equipment on December 1, 1950. The product is the standard charge which the manufacturer must deduct from the net price (f. o. b. factory) which he had in effect to the same class of purchaser on December 1, 1950.

2. Section 7 (b) is amended to read as follows:

(b) *Invoicing.* Each manufacturer of new automobiles shall furnish to each person to whom he sells a new automobile, an invoice showing the following items separately:

(1) An amount equal to the net price (f. o. b. factory) in effect on February 28, 1951, to a purchaser of the same class, less any deduction therefrom required by this regulation because of the discontinuance of any standard equipment.

(2) The amount of any increase which the regulation permits the manufacturer to make in his February 28, 1951, net price (less any deduction for the elimination of standard equipment required by this regulation).

3. The second paragraph of section 8 is amended to read as follows:

This regulation shall become effective immediately.

(Sec. 704, Pub. Law 774, 81st Cong.)

This amendment shall become effective May 1, 1951.

EDWARD F. PHELPS, Jr.,
Acting Director of Price Stabilization.

MAY 1, 1951.

[F. R. Doc. 51–5141; Filed, May 1, 1951; 8:45 a. m.]

[Ceiling Price Regulation 22, Supplementary Regulation 1]

CPR 22—MANUFACTURERS' GENERAL CEILING PRICE REGULATION

SR 1—IMPORTED PULPWOOD AND WOODPULP

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Supplementary Regulation 1 to Ceiling Price Regulation 22 is hereby issued.

STATEMENT OF CONSIDERATIONS

Since June 1950, the prices of imported woodpulp, quoted on a quarterly basis, have risen rapidly and by substantial amounts. Swedish producers have raised their prices for bleached sulphite pulp from $118.00 per ton in June 1950 to $175.00 per ton in the first quarter of 1951 and to $250.00–$290.00 per ton for the second quarter of 1951; prices of unbleached sulphate have been increased from $85.00 in June 1950 to $153.00 per ton in the first quarter of 1951 and to $225.00–$275.00 per ton in the second quarter of 1951. The prices of woodpulp from Canada have not increased at the same rate. From June 1950 to the second quarter of 1951, prices of bleached sulphite rose from $126.00–$135.00 to $160.00–$175.00 per ton and the prices of unbleached sulphate rose from $82.00–$85.00 to $145.00–$170.00 per ton.

Imported woodpulp represents about 55 percent of the total quantity of woodpulp annually sold in the United States and is chiefly consumed by non-integrated mills located in the Lake and Northeastern states. The woodpulp inventories of non-integrated mills have remained relatively constant at about 5 weeks supply and, consequently, paper and paperboard produced from imported woodpulp in the second quarter will to a large extent be made from woodpulp received during the same period.

A similar price-supply situation exists for woodpulp producing mills located in the Lake and Northeastern states. Mills in these areas are dependent on pulpwood from Canada for between 25 and 30 percent of their requirements and some individual mills are almost wholly dependent on imported wood. Since June 1950, the prices of all Canadian wood have rapidly increased as a result of competition with Canadian mills for the available supply. Pulpwood price increases have been particularly sharp in New Brunswick, the most important source of wood for Northeastern mills, where, in addition to competing with Canadian mills, United States mills have been forced to also compete for wood with European mills. Further, wood inventories in both these areas have been substantially reduced and current pulpwood prices are directly reflected in the cost of producing pulp, paper and paperboard made therefrom.

Under these circumstances, manufacturers in these industries would sustain serious hardship if they were not permitted to compute their cost increases for these materials on the basis of second quarter prices. For this reason, April 16, 1951, is established as the cutoff date for computing these increases

in materials costs. This action is taken with specific reference to the price level prevailing in April 1951. It is not to be inferred that similar actions will be taken with reference to later quarterly pricing periods in recognition of any future increases in woodpulp and pulpwood prices.

It should also be emphasized that this action in no respect places any stamp of approval on, or implies any continued acceptance of, the woodpulp prices allowed to be reflected by this action. These prices are clearly inflationary, and their acceptance in this action merely a temporary expedient in recognition of the fact that many mills have already contracted to receive woodpulp at the current prices. This is an interim solution, awaiting more appropriate action with respect to the whole structure of pulp and paper prices.

Finally, it should be recognized that this action does not imply that in other cases in which current replacement cost exceeds that reflected in the calculation of a manufacturer's ceiling price under CPR 22, any similar change in cut-off date will be made. The change in this instance is allowed only because the cost increase for imported pulp and pulpwood after March 15 has been of such tremendous magnitude as to make operations impossible under the ceilings otherwise calculated for a mill that uses a large percentage of imported pulp and pulpwood.

In the judgment of the Director of Price Stabilization, the provisions of this Supplementary Regulation 1 to the Ceiling Price Regulation 22 are generally fair and equitable and are necessary to effectuate the purpose of Title IV of the Defense Production Act of 1950.

So far as practicable the Director of Price Stabilization gave due consideration to the national effort to achieve maximum production in furtherance of the objectives of the Defense Production Act of 1950, and to relevant factors of general applicability.

REGULATORY PROVISIONS

Sec.
1. What this supplementary regulation does.
2. Cut-off date which may be used in calculating "the material cost adjustment".

AUTHORITY: Sections 1 to 3 issued under sec. 704, Pub. Law 774, 81st Cong. Interpret or apply Title IV, Pub. Law 774, 81st Cong., E. O. 10161, Sept. 9, 1950, 15 F. R. 6105, 3 CFR 1950 Supp.

SECTION 1. *What this supplementary regulation does.* This Supplementary Regulation 1 modifies Ceiling Price Regulation 22 by providing that manufacturers of woodpulp, paper, paperboard and converted paper and paperboard products, who are otherwise subject to the provisions of Ceiling Price Regulation 22, may use in determining their ceiling prices, increases in their material costs of imported pulpwood and imported woodpulp up to and including April 16, 1951.

All other provisions of Ceiling Price Regulation 22 are unaffected by this Supplementary Regulation 1.

SEC. 2. *Cut-off date which may be used in calculating "the material cost adjustment".* Wherever reference is made in Ceiling Price Regulation 22 to a cut-off date for calculating "the materials cost adjustment" in section 13 through section 16 of Ceiling Price Regulation 22, manufacturers of woodpulp, paper, paperboard and converted paper and paperboard products may use instead a cut-off date no later than April 16, 1951 for imported pulpwood and imported woodpulp only.

Effective date. This Supplementary Regulation 1 to Ceiling Price Regulation 22 shall become effective May 28, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

APRIL 30, 1951.

[F. R. Doc. 51-5119; Filed, Apr. 30, 1951; 4:00 p. m.]

[Ceiling Price Regulation 22, Interpretation 1]

CPR 22, INT. 1—INCREASES IN TRANSPORTATION COSTS

Section 28 of CPR 22 permits an adjustment of ceiling prices quoted on a delivered basis to reflect any increases, between the end of the base period and March 15, 1951, in transportation costs actually incurred. This does not include increases in rail or water freight rates authorized by the Interstate Commerce Commission in its decision of March 12, 1951 in Ex Parte No. 175 (and Sub-No. 1). None of the increases so authorized became effective until after March 15, 1951.

HAROLD LEVENTHAL,
Chief Counsel,
Office of Price Stabilization.

MAY 1, 1951.

[F. R. Doc. 51-5152; Filed, May 1, 1951; 10:38 a. m.]

[General Ceiling Price Regulation, Supplementary Regulation 11, Revision 1]

GCPR, SR 11, REV. 1—SOFT SURFACE FLOOR COVERINGS

Pursuant to the Defense Production Act of 1950 (Public Law 774, 81st Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this revised Supplementary Regulation No. 11 to the General Ceiling Price Regulation (16 F. R. 808) is hereby issued.

STATEMENT OF CONSIDERATIONS

This revision of Supplementary Regulation No. 11 to the General Ceiling Price Regulation makes a number of minor changes in the original regulation which became effective March 13, 1951.

The revised regulation makes it clear that manufacturers may not add the 15 percent permitted increase to the list price of any zone other than the mill zone. Since the percentage increase is intended to compensate for increase in raw materials, primarily wool, it would be inflationary to allow the percentage addition to be added to zone prices which include freight. The permitted increase is therefore made applicable to the mill zone price.

The revised regulation makes specific provision that in pricing new merchandise which did not appear in any manufacturer's list, the distinction between a basic price and permitted increase is maintained. The permitted increase is the amount which the seller at a subsequent level of distribution adds onto his ceiling price. To conform to the nomenclature adopted in Amendment 2 to CPR 7 the term "basic cost" is substituted for the term "original cost" formerly used.

The pass-through provisions which previously were applicable only to retailers under Ceiling Price Regulation 7 are by the current revision made applicable to all GCPR sellers. These include decorator supply houses and carpet contractors, as well as some retailers who will remain under the General Ceiling Price Regulation until they have filed their pricing chart.

The provisions with respect to notification to retailers are made applicable to the interior decorator supply houses in their sales to persons other than consumers.

GENERAL CEILING PRICE REGULATION

Supplementary Regulation 11, Revision 1

Sec.
1. What this revised supplementary regulation does.
2. Sale by a manufacturer or wholesaler.
3. Sale to a wholesaler.
4. New floor coverings.
5. Sellers other than a manufacturer or wholesaler.
6. Notification.
7. Applicability of General Ceiling Price Regulation.

AUTHORITY: Sections 1 to 7 issued under sec. 704, Public Law 774, 81st Cong. Interpret or apply Title IV, Public Law 774, 81st Cong.; E. O. 10161, Sept. 9, 1950, 15 F. R. 6105.

SECTION 1. *What this revised supplementary regulation does.* This revised supplementary regulation supersedes Supplementary Regulation 11, effective March 13, 1951. It establishes new ceiling prices for sales of soft surface floor coverings with pile fabrics of wool, synthetic materials, or a blend of both.

SEC. 2. *Sale by a manufacturer or wholesaler.* The ceiling price for sales by manufacturers and wholesalers of any unit of floor covering is the applicable mill or zone price for that unit of floor covering contained in the manufacturer's price list in effect for deliveries at any time between December 19, 1950, and January 15, 1951, plus 15 percent of the applicable manufacturer's mill price. The added amount is referred to as "permitted increase." The term "wholesaler" for the purpose of this revised supplementary regulation does not include any seller commonly referred to as a decorator supply house or carpet contractor or to any person customarily buying at manufacturers' list prices.

SEC. 3. *Sale to a wholesaler.* The ceiling price for any sale by a manufacturer to a wholesaler is the ceiling price established in section 2 of this regulation, less discount of a percentage no smaller than the discount in effect during the period from December 19, 1950, to January 26, 1951.

SEC. 4. *New floor coverings.* A manufacturer or wholesaler establishes his ceiling price for a new unit of floor covering, not included in a manufacturer's price list in effect between December 19, 1950, and January 15, 1951, by first computing his price under section 4 of the General Ceiling Price Regulation if a manufacturer and under section 5 of the General Ceiling Price Regulation if a wholesaler and then adding 15 percent to the resulting figure. The figure arrived at under section 4 or section 5 of the General Ceiling Price Regulation is the "basic price." The amount added is the "permitted increase." The total is the ceiling price.

SEC. 5. *Sellers other than a manufacturer or wholesaler.* Any seller whose sales are covered by the General Ceiling Price Regulation, other than a manufacturer or wholesaler, may add to his ceiling price, established without the benefit of this revised supplementary regulation, an amount equal to the manufacturer's "permitted increase". The result becomes his new ceiling price.

SEC. 6. *Notification.* Any seller of floor coverings, selling to any person other than an ultimate consumer, must break down his invoice price for each commodity sold, into two component parts. One part, called the "basic price" is the ceiling price established under the General Ceiling Price Regulation, computed without the benefit of this revised supplementary regulation. The other part is the "permitted increase".

To each invoice rendered in connection with a sale to a retailer, including an interior decorator, shall be affixed (by rubber stamp or other convenient means) this statement:

> The amount on this invoice shown as the "basic price" is the cost on which you apply your mark-up under OPS Ceiling Price Regulation 7. The amount shown as "permitted increase" may be added to your price *after* applying your mark-up. The total becomes your ceiling price.

SEC. 7. *Applicability of General Ceiling Price Regulation.* All provisions of the General Ceiling Price Regulation, not inconsistent with the provisions of this revised supplementary regulation, shall remain in effect.

Effective date. This revised supplementary regulation to the General Ceiling Price Regulation shall become effective May 5, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

APRIL 30, 1951.

[F. R. Doc. 51-5120; Filed, Apr. 30, 1951; 4:00 p. m.]

[General Ceiling Price Regulation, Supplementary Regulation 22]

GCPR, SR 22—CEILING PRICES FOR CERTAIN MACHINERY LEASED BY AMERICAN CAN COMPANY AND CONTINENTAL CAN COMPANY, INC.

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Supplementary Regulation 22 to the General Ceiling Price Regulation (16 F. R. 808) is hereby issued.

STATEMENT OF CONSIDERATIONS

This supplementary regulation permits the American Can Company and Continental Can Company, Inc., to increase their prices in effect on January 25, 1951, for the lease of container closing machines, related or auxiliary equipment, or for machine service furnished in connection with such leased machines and equipment, by the amount required from time to time to conform with the judgment of the District Court for the Northern District of California, (Southern Division), in United States of America vs. Continental Can Company, Inc., civil action #26346, and United States of America vs. American Can Company, civil action #26345-H.

In the case of Continental Can Company, Inc., the United States of America filed a complaint on August 27, 1946, and its amended complaint on June 7, 1948, alleging violations of the Sherman and Clayton Acts. Pursuant to stipulation between the parties, the Court entered its judgment on June 26, 1950. In the case of American Can Company, the United States of America filed its complaint on August 27, 1946, and its amended complaint on May 25, 1948. The Court filed its opinion on November 10, 1949, finding that the American Can Company had violated sections 1 and 2 of the Sherman Anti-Trust Act and section 3 of the Clayton Act and issued its judgment on June 22, 1950. According to the finding of the Court, the companies leased container closing machines and related or auxiliary equipment at nominal rentals, well below the cost of doing business, as an inducement for lessees to purchase cans from them, rather than their competitors. The Court entered a final judgment against each of these companies requiring them to raise their rental rates for this machinery and their rates for servicing this machinery, to compensatory levels. This action was designed to assist in making the operation of these companies competitive with other companies engaged in the same business.

The Court appointed a Special Master whose duty it is to evaluate the efforts of the Companies to comply with the judgments, specifically including the required increase of rental rates to a compensatory level. The Office of Price Stabilization has received the oral assurance of the Special Master that he will notify the Court and the Office of Price Stabilization of any proposed increase in rental rates of either Company which, from the information at his disposal, may appear to be in excess of compensatory rates as defined in the judgments.

Under the provisions of the General Ceiling Price Regulation, these companies could not increase their prices for rentals or for furnishing services in accordance with the final judgment, without being in violation of the provisions of the General Ceiling Price Regulation.

The situation presented by the conflict between the regulations of this Agency and the decrees of the Court is a novel one. In view of the fact that the ultimate objective of the Court's judgments is the restoration of competition in the can manufacturing industry, it is the opinion of the Director of Price Stabilization that enforcement of the Court's judgments in these cases would be consistent with the policies expressed by the General Ceiling Price Regulation and with the purposes of the Defense Production Act of 1950.

At any time when it appears that rentals will be in excess of compensatory rates as defined in the judgments, the Office of Price Stabilization will take such action as may under the circumstances appear to be necessary.

Accordingly, this supplementary regulation permits the American Can Company and the Continental Can Company, Inc., to comply with the provisions of the Court's judgments.

REGULATORY PROVISIONS

Sec.
1. Applicability.
2. Definitions.
3. Ceiling prices for leases and certain machine services.
4. Service training schools.
5. Reports.

AUTHORITY: Sections 1 to 5 issued under sec. 704, Pub. Law 774, 81st Cong. Interpret or apply title IV, Pub. Law 774, 81st Cong.; E. O. 10161, Sept. 9, 1950, 15 F. R. 6105.

SECTION 1. *Applicability.* (a) This supplementary regulation establishes the ceiling prices for leases of container closing machines, related equipment and auxiliary equipment, and for services in connection with the leased machines by American Can Company and Continental Can Company, Inc. These ceiling prices supersede the ceiling price for these leases and services established under the General Ceiling Price Regulation.

(b) The provisions of this regulation are applicable in the United States, its territories and possessions, and the District of Columbia.

SEC. 2. *Definitions.* The following terms used in this regulation shall have the following meanings:

(a) The term "container closing machine" means any integral machine which performs as its primary function the final double seaming, clinching, seating or crimping of metal or fiber covers to metal or fiber containers.

(b) The term "related equipment" means any integral machine (other than container closing machines) which is used to supplement the operation of a container closing machine, or used in the preparing, filling or weighing of the contents prior to the final seaming, clinching, seating, or crimping of the metal or fiber covers, or in the unsealing, filling, and resealing of containers, or in the subsequent marking, identification, weighing, or handling of the closed container, including but not limited to key clinchers, spout clinchers and can opening machines.

(c) The term "auxiliary equipment" means:

(1) Supplementary non-integral mechanisms which may be directly at-

tached to container closing machines or related equipment to perform functions other than the double seaming, clinching, seating or crimping of metal or fiber covers to metal or fiber containers, including, but not limited to, can feeds, non-spill devices, take-away conveyors, discharge devices, but shall not include any particular special device made to one customer's specifications, and not manufactured thereafter.

(2) Sets of change parts for container closing machines and related equipment, and all other devices and equipment which will enable any container closing machine or related equipment to accommodate the containers of various types and sizes within the range of the particular container closing machine or related equipment.

(d) The term "machine services" means any form of technical services in connection with the installation, repair, overhaul, reconditioning, maintenance and related services of container closing machines, related equipment, and auxiliary equipment.

(e) The term "American Can Company" means that corporation and its domestic subsidiaries and the term "Continental Can Company, Inc." means that corporation and its domestic subsidiaries.

SEC. 3. *Ceiling prices for leases and certain machine services.* The ceiling price for the lease of any container closing machine, related equipment or auxiliary equipment or for machine services furnished in connection with such leased machines and equipment by American Can Company or by Continental Can Company, Inc., shall be the price in effect on January 25, 1951 (adjusted to reflect customary differentials, including discounts, allowances, premiums and extras, based upon difference in classes or location of purchasers or in terms or conditions of lease) increased by the amount required from time to time to conform to section 10 of Part III of the judgment of the District Court for the Northern District of California (Southern Division) filed June 26, 1950 in United States of America v. Continental Can Company, Inc., Civil Action No. 26346, and the judgment of the District Court for the Northern District of California (Southern Division) filed June 22, 1950 in United States of America v. American Can Company, Civil Action No. 26345–H.

SEC. 4. *Service training schools.* The ceiling price for the leasing of any container closing machine, related equipment or auxiliary equipment under this regulation shall include the maintaining of service training schools as required by section 18 of Part III of said judgments and no separate charge may be made for such training.

SEC. 5. *Reports.* American Can Company and Continental Can Company, Inc., shall each file a report with the Industrial Materials and Manufactured Goods Division, Office of Price Stabilization, Washington 25, D. C., each and every time that they increase their lease prices for the lease of machines or the furnishing of services covered by this regulation pursuant to the provisions of section 3 of this regulation, stating the last price for each class of customer and the amount of the increase to each class of customer.

This regulation shall become effective April 30, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

APRIL 30, 1951.

[F. R. Doc. 51–5121; Filed, Apr. 30, 1951; 4:00 p. m.]

[General Ceiling Price Regulation, Supplementary Regulation 23]

GCPR, SR 23—ADJUSTMENT OF CEILING RATES OF MOTOR CARRIERS SUBJECT TO MINIMUM RATE ORDERS OF CERTAIN STATES

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Supplementary Regulation 23 to the General Ceiling Price Regulation is hereby issued.

STATEMENT OF CONSIDERATIONS

The California Public Utilities Commission and the Colorado Public Utilities Commission recently have issued orders prescribing certain rates to be observed as minimum by motor carriers other than common carriers operating intrastate in those jurisdictions. The Massachusetts Department of Public Utilities has advised that similar action by that body is contemplated. These actions by the state regulatory bodies have been taken or are being considered, of course, pursuant to existing statutory authority or requirements of the respective states.

The rates of carriers other than common carriers are subject to the General Ceiling Price Regulation, and compliance by the motor carriers subject to the aforementioned state minimum rate orders would result in their charging rates higher than the ceiling rates permitted under the General Ceiling Price Regulation. An accommodation of the conflicting requirements of the State and Federal regulations in these instances is necessary and consistent with the policy and purposes of the Defense Production Act of 1950. To enable this, this supplementary regulation makes a direct delegation of authority to the appropriate Regional Directors of the Office of Price Stabilization to adjust the ceiling rates of those motor carriers who are subject to the General Ceiling Price Regulation and at the same time subject to minimum rate orders in the states named.

The regulation requires that certain evidence substantiating the minimum rate proposal or order be submitted by the state regulatory authority to the OPS Regional Director. The evidence thus required is of substantially the same character as the evidence which the regulatory bodies themselves customarily require and consider before issuing their minimum rate orders.

Consultation has been had with the state authorities involved and, so far as practicable, with the carriers affected or to be affected by this supplementary regulation. In the judgment of the Director of Price Stabilization the provisions of this Supplementary Regulation 23 to the General Ceiling Price Regulation are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950.

REGULATORY PROVISIONS

Sec.
1. Applicability.
2. Delegation of authority to Regional Directors to adjust rates.
3. Required findings by Regional Directors.
4. What the petition must include.

AUTHORITY: Sections 1 to 4 issued under Sec. 704, Pub. Law 774, 81st Cong. Interpret or apply Title IV, Pub. Law 774, 81st Cong., E. O. 10161, Sept. 9, 1950, 15 F. R. 6105.

SECTION 1. *Applicability.* This regulation applies only to ceiling rates for the intrastate services of motor carriers other than common carriers, in the States of California, Colorado, and Massachusetts, whose minimum rates are regulated by the statutes or by the orders, rules, or regulations of the appropriate state regulatory body.

SEC. 2. *Delegation of authority to Regional Directors to adjust ceiling rates.* The respective Regional Directors for Regions 1, 11 and 12 of the Office of Price Stabilization are hereby delegated authority to adjust ceiling rates established under the General Ceiling Price Regulation for the intrastate services of motor carriers other than common carriers, performing operations, respectively, in the States of Massachusetts, Colorado and California, upon petition filed with the appropriate Regional Director by the Massachusetts Department of Public Utilities, the Colorado Public Utilities Commission, or the California Public Utilities Commission.

SEC. 3. *Required findings by Regional Directors.* Adjustments under the authority of section 2 of this regulation may be made only upon specific findings by the appropriate Regional Director:

(a) That the adjustment is necessary to effectuate the purposes of the Defense Production Act of 1950.

(b) That the adjustment is necessary to eliminate a conflict between the provisions of the General Ceiling Price Regulation, or amendments and regulations supplementary thereto, and the statutes of the particular State or the orders, rules or regulations of the regulatory body for the State concerned with the petition under consideration.

(c) That the adjustment is necessary to effectuate the purposes of the law under which the particular regulatory body operates.

SEC. 4. *What the petition must include.* When any of the regulatory bodies hereinbefore named petitions the appropriate Regional Director for an adjustment in the ceiling rates of motor carriers other than common carriers, subject to its jurisdiction, it shall submit with its petition the following information:

(a) A certified copy of the law, statute or other authorization under which it exercises jurisdiction and regulates the intrastate minimum rates of motor carriers other than common carriers.

(b) A schedule or statement of the intrastate minimum rates of the motor carriers concerned which were in effect during the period December 19, 1950, to January 25, 1951.

(c) A schedule or statement showing the minimum rates ordered or contemplated for the motor carriers concerned.

(d) The data considered by the regulatory body in making its findings concerning any adjustment in the intrastate minimum rates of the motor carriers involved in the petition.

(e) A statement of the findings or proposed findings of the regulatory body upon which the adjustment in rates is based and a copy of any order issued or proposed for issuance by the regulatory body pursuant thereto.

Effective date. This Supplementary Regulation 23 to the General Ceiling Price Regulation is effective May 1, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

MAY 1, 1951.

[F. R. Doc. 51-5153; Filed, May 1, 1951; 10:38 a. m.]

[General Overriding Regulation 6, Amdt. 1]

GOR 6—EXEMPTIONS OF CERTAIN SALES OF MERCHANDISE BEARING BRAND OR INSIGNIA OF SPECIFIED NON-PROFIT ORGANIZATIONS

SALES OF CARE RELIEF PACKAGES

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738) this Amendment to General Overriding Regulation 6 is hereby issued.

STATEMENT OF CONSIDERATIONS

General Overriding Regulation 6, issued April 20, 1951, exempted from any ceiling price restrictions imposed by the Office of Price Stabilization certain sales of articles bearing the insignia or brand of the Girl Scouts of the U. S. A. or Boy Scouts of America and sales by the Future Farmers of America. These exemptions were based on the recognition that the organizations affected are nonprofit in character, that the manner of distribution and the prices of the merchandise are strictly controlled by the organizations and any profits realized are used to further the work of the respective organizations. Subjecting these sales to price control was considered of no appreciable benefit to the program of price stabilization and tending to impose an unnecessary burden upon the Office of Price Stabilization.

Since the issuance of General Overriding Regulation 6, the Office of Price Stabilization has considered the operations of Cooperative for American Remittances to Europe, Inc., better known as CARE, an organization devoted to the task of shipping primarily food and clothing packages to needy persons abroad. It is a charitable organization, and so recognized by the Bureau of Internal Revenue, under section 101(6) of the Internal Revenue Code. Its principal operation consists of the packaging and shipping of food and clothing packages and their delivery abroad in response to contributions, orders and payments received from the public. Any margin of profit remaining after discharge of costs is used for charitable purposes, such as the free distribution of food and other relief assistance to needy persons.

Moreover, the total delivered cost to the donor of a package is, because of economies in purchasing and shipping, considerably less than if he purchased the contents of the package and mailed it himself. The work that CARE has done is well recognized as an important charitable undertaking and it is a continuing task in view of world conditions existing at this time. Subjecting sales of CARE packages to price control, which of necessity cannot reflect some of the intangible values inherent in CARE's system of selective assembling and distribution of relief items would have no appreciable benefit to the program of price stabilization and would impose an unnecessary burden upon the Office of Price Stabilization. In the judgment of the Director of Price Stabilization, it is not necessary for ceilings to be applied to these transactions. Accordingly, this amendment adds sales of CARE relief packages to the transactions exempted from price control by General Overriding Regulation 6.

AMENDATORY PROVISIONS

General Overriding Regulation 6 is amended by adding the following:

SEC. 3. *Sales of CARE relief packages.* No price regulation issued by the Office of Price Stabilization shall apply to sales and distribution of CARE relief packages by Cooperative for American Remittances to Europe, Inc., as long as that organization continues to be organized as a corporation organized and operated exclusively for charitable purposes within the meaning of section 101 (6) of the Internal Revenue Code.

(Sec. 704, Pub. Law 774, 81st Cong.)

Effective date: This amendment shall become effective May 5, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

MAY 1, 1951.

[F. R. Doc. 51-5151; Filed, May 1, 1951; 10:38 a. m.]

[General Overriding Regulation 9]

GOR 9—EXEMPTIONS OF CERTAIN INDUSTRIAL MATERIALS AND MANUFACTURED GOODS

Pursuant to the Defense Production Act of 1950 (Public Law 774, 81st Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this General Overriding Regulation 9 is issued.

STATEMENT OF CONSIDERATIONS

This General Overriding Regulation is an across-the-board regulation which exempts certain transactions from any ceiling price regulations imposed by the Office of Price Stabilization. At the present time only sales of raw mica, mica parts, and tungsten ores, and sales to any agency of the United States Government of tungsten concentrates processed from ore produced outside of the United States, its Territories or Possessions are included in the regulation, but it is anticipated that other items will be added from time to time.

Raw mica and mica parts. Raw mica consists of mica block, film, and splittings, and punch and circle mica while mica parts are items fabricated from raw mica for use as component parts in the manufacture of electrical and electronic equipment and other miscellaneous products. Mica parts include such things as electronic tube bridges, condenser film, toaster segments, mica plate, mica rings, mica tape, and gauge glass gaskets.

Almost all of the raw mica used in the United States is imported, with over 90 percent of the total supply coming from India. Mica fabricators purchase their material from foreign sources either directly or through importers who maintain some inventory and perform some sorting and grading. Generally, fabrication is a relatively simple process consisting of slitting, gauging, and punching operations. The cost of raw mica constitutes anywhere from 30 to 70 percent of the total cost of parts fabrication while the cost of parts seldom exceeds 5 percent of the price of the products in which they are incorporated.

Furthermore, raw mica is not a standardized product and there is a wide diversity in quality from lot to lot with a consequent substantial difference in yield. Because of the nonuniformity in raw materials, mica fabricators have difficulty in determining their costs in advance and ordinarily set their prices according to rough formulas which are based upon more or less informed guesses as to yields which can be obtained from the raw mica available or which may be procured to fill a given order.

In view of the lack of any effective control over the prices for almost all raw mica, the fact that the cost of mica parts is only a relatively small portion of the cost of the products in which they are used, and the difficulty of devising adequate ceiling pricing techniques for mica parts, it has been determined that the administrative burden of maintaining ceiling prices for raw mica and mica parts would outweigh the benefits to be derived from such control.

Tungsten ores. Tungsten ores, which normally contain from 0.5 percent to 2.5 percent tungsten trioxide (the basic tungsten compound) vary widely with respect to quality and the number of impurities which they contain. Before such ores can be used they are processed into tungsten concentrates containing approximately 60 percent tungsten trioxide. Customarily, the price paid for tungsten ores by a processor are determined by reference to the prices for

tungsten concentrates. Since ceiling prices have been established for sales of tungsten concentrates, it is unnecessary to assume the administrative burden involved in establishing ceiling prices for tungsten ores.

Sales to agencies of the United States Government of imported concentrates. Tungsten is one of the strategic materials vitally needed in the defense program and a substantial portion of our requirements must come from foreign sources. Because supplies from China are no longer freely available, there is a severe shortage of tungsten and prices in the world market exceed the ceiling prices which have been established for sales in the United States. In order to enable the agencies of the United States Government to procure tungsten which we need, sales to such agencies of tungsten concentrates processed from ore produced outside of the United States, its Territories, or possessions have been exempted from all ceiling price restrictions. This action will have little, if any, effect upon the stabilization program since any sales by the agencies concerned will be governed by the applicable ceiling price regulation.

A provision is also made in the regulation for the eventual inclusion of suspension from price control of certain sales and certain commodities. These suspensions will be announced at a future date by amendment which will incorporate the suspensions in this general overriding regulation.

REGULATORY PROVISIONS

Sec.
1. What this regulation does.
2. Exemptions.

AUTHORITY: Sections 1 and 2 issued under sec. 704, Pub. Law 774, 81st Cong. Interpret or apply Title IV, Pub. Law 774, 81st Cong., E. O. 10161, Sept. 9, 1950, 15 F. R. 6105.

SECTION 1. *What this regulation does.* This regulation exempts certain commodities or transactions from any ceiling price restrictions imposed by the Office of Price Stabilization. It also suspends the operation of any ceiling price restrictions imposed by the Office of Price Stabilization as to certain other commodities or transactions.

SEC. 2. *Exemptions and suspensions from price control*—(a) *Exemptions.* No ceiling price regulation heretofore issued or which may hereafter be issued by the Office of Price Stabilization shall apply to the following:

(1) *Sales of raw mica.* "Raw mica" includes all grades of mica block, film, and splittings and punch and circle mica. It does not include mica scrap or wet and dry ground mica.

(2) *Sales of mica parts.* "Mica parts" are items fabricated from raw mica for use as component parts in the manufacture of electrical and electronic equipment and other miscellaneous products. The term "mica parts" as used herein includes, but is not limited to, such items as electronic tube bridges, condenser film, toaster segments, mica plate, mica rings, mica tape, and gauge glass gaskets.

(3) *Sales of tungsten ores.* "Tungsten ores" include any tungsten bearing ore which is sold for processing into tungsten concentrates.

(4) *Sales to any agency of the United States Government of tungsten concentrates processed from ore produced outside of the United States, its Territories, or Possessions.* "Tungsten concentrates" include wolframite, Hubnerite, ferberite or natural or synthetic scheelite which has been separated from gangue or associated rocks by physical or chemical processes.

(b) *Suspensions.* (Reserved.)

Effective date. This General Overriding Regulation shall become effective May 1, 1951.

EDWARD F. PHELPS, JR.,
Acting Director of Price Stabilization.

MAY 1, 1951.

[F. R. Doc. 51-5142; Filed, May 1, 1951; 8:45 a. m.]

Chapter XVII—Housing and Home Finance Agency

[CR 1]

CR 1—RESIDENTIAL CREDIT CONTROLS: POLICY AND PROCEDURE FOR PROCESSING AND APPROVAL OF EXCEPTIONS AND TERMS FOR CRITICAL DEFENSE HOUSING AREAS

The policy and procedure statement, originally issued at 16 F. R. 2231–2232 (March 10, 1951) and amended at 16 F. R. 3302–3303 (April 14, 1951), pursuant to sections 601 through 605 and section 704 of Public Law 774, 81st Cong. (64 Stat. 813, 814, 815, 816), sections 501, 502, and 902 of Executive Order 10161, September 9, 1950 (15 F. R. 6106), and the approval and authorization by the Board of Governors of the Federal Reserve System immediately following that statement, are hereby amended to read as follows:

Sec.
1. Programming exceptions from residential credit controls.
2. Areas of certain Atomic Energy Commission installations.
3. Other critical defense housing areas.
4. Conditions to credit control exceptions.

AUTHORITY: Sections 1 to 4 issued under sec. 704, Pub. Law 774, 81st Cong. Interpret or apply Title VI, Pub. Law 774, 81st Cong., secs. 501, 502, 902, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR 1950 Supp.

SECTION 1. *Programming exceptions from residential credit controls.* For areas designated by the Housing and Home Finance Administrator with the concurrence of the Board of Governors of the Federal Reserve System, the restrictions on residential real estate construction credit contained in Regulation X of the Board and in the related regulations of the Federal Housing Commissioner and the Administrator of Veterans' Affairs have been relaxed to assist in meeting the need for housing accommodations for in-migrant defense workers and military personnel and their families where the failure to provide such housing would impede national defense activities. The designations of these areas are based on housing market field surveys. Exceptions from credit restrictions will be issued generally in accordance with area program schedules adopted from time to time by the Housing and Home Finance Agency. Such program schedules relate to the location of the housing within the area, the number, types and sizes of rental, sales, and other units required, the levels of rental or sales prices which must be achieved if the housing is to meet the needs of the in-migrant defense workers and military personnel and their families for whom it is to be made available, and similar factors.

With respect to housing so programmed by the Housing and Home Finance Administrator, real estate credit restrictions of the Board of Governors of the Federal Reserve System, the Federal Housing Commissioner, and the Administrator of Veterans' Affairs have been relaxed to the extent announced by such Board and agencies, respectively, subject to such conditions and requirements as are found necessary by the Housing and Home Finance Administrator to assure that the housing will serve the purpose for which the credit restrictions were relaxed.

SEC. 2. *Areas of certain Atomic Energy Commission installations.* With respect to housing programmed for rent in accordance with this procedure in the areas of the Savannah River (S. C. and Ga.), Paducah (Ky.), and Reactor Testing Station (Idaho) installations of the Atomic Energy Commission, the relaxed credit restrictions will be made available only upon the approval by the Housing and Home Finance Administrator of an application submitted to the local field office of the Housing and Home Finance Agency on a form prescribed by the Administrator. This application must be submitted by the persons proposing to construct the housing and will be approved only if the housing is found by the Administrator to meet the conditions and requirements prescribed by him.

With respect to housing programmed for sale in such areas in accordance with the proposed procedure, such housing may be sold for the purchaser's own occupancy or built for the owner-occupant only if the prospective purchaser or owner-occupant has been issued a certificate from the Atomic Energy Commission indicating his eligibility as a person engaged or to be engaged in national defense activities.

SEC. 3. *Other critical defense housing areas.* With respect to housing programmed in accordance with this procedure for critical defense housing areas (other than the areas designated in the preceding section), the relaxed credit restrictions will be made available only upon the approval of an application submitted to the appropriate local field office of the Federal Housing Administration on a form prescribed by the Housing and Home Finance Administrator, and such application will be approved only if the housing is found to meet the conditions and requirements prescribed by him. With respect to housing so programmed for rent or for sale, this application must be submitted by the person proposing to construct the housing. With respect to other housing so programmed for owner-occupancy this

application must be submitted by the proposed owner-occupant.

SEC. 4. *Conditions to credit control exceptions.* Any person making application for the relaxation of credit restrictions in accordance with section 2 or section 3, and his successors in interest, must agree to such conditions and requirements as are prescribed in the application form and in appropriate regulations or procedures of the Housing and Home Finance Administrator. These conditions and requirements are for the purpose of assuring that the housing will be so built, rented, sold, or occupied as to meet most effectively the housing needs of persons engaged in national defense activities and to best support such activities.

Dated: April 30, 1951.

RAYMOND M. FOLEY,
Housing and Home Finance Administrator.

The Board of Governors of the Federal Reserve System hereby approves, for application in the areas of Savannah River (S. C. and Ga.), Paducah (Ky.), and Idaho Reactor Testing Station (Idaho) installations of the Atomic Energy Commission and in the additional critical defense housing areas designated by the Housing and Home Finance Administrator with the concurrence of the Board of Governors of the Federal Reserve System, the policy and procedure described above, and, for the purpose of making the policy and procedure applicable to residential real estate construction credit subject to Regulation X, authorizes the Housing and Home Finance Administrator or his designee to take such administrative action as he determines to be appropriate in carrying out such policy and procedure, including the issuance of specific forms, applications, and regulations.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
[SEAL] S. R. CARPENTER,
Secretary.

APRIL 30, 1951.

[F. R. Doc. 51-5125; Filed, May 1, 1951; 12:00 p. m.]

[CR 3]

CR 3—RELAXATION OF RESIDENTIAL CREDIT CONTROLS: REGULATION GOVERNING PROCESSING AND APPROVAL OF EXCEPTIONS AND TERMS FOR CRITICAL DEFENSE HOUSING AREAS

The following regulation (HHFA Regulation CR 3) is issued pursuant to sections 601 through 605 and section 704 of Pub. Law 774, 81st Cong. (64 Stat. 813, 814, 815, 816), sections 501, 502, and 902 of Executive Order 10161, September 9, 1950 (15 F. R. 6106), and the approval and authorization by the Board of Governors of the Federal Reserve System of HHFA CR 1:

GENERAL

Sec.
1. Statement of purpose.
2. What this regulation does.
3. Geographical areas affected.
4. Type of housing eligible.
5. Programming by HHFA.
6. Beginning of construction; time limit.
7. Definitions.

HOUSING TO BE HELD FOR RENT

8. Who may apply for exception from credit restrictions.
9. Where and how builders should apply.
10. Approval of applications.
11. Rules and conditions applicable.
12. Eligibility for tenancy.

SALES HOUSING AND OTHER HOUSING TO BE BUILT FOR OWNER-OCCUPANCY

13. Who may apply for exception from credit restrictions.
14. Where and how builders should apply.
15. Approval of applications.
16. Rules and conditions applicable.
17. Eligibility for purchase.

SPECIAL CREDIT EXCEPTIONS FOR PURCHASERS OF OTHER HOUSING

18. Approval of special credit exceptions.
19. Conditions and requirements.

AUTHORITY: §§ 1 to 19 issued under sec. 704, Pub. Law 774, 81st Cong. Interpret or apply Title VI, Pub. Law 774, 81st Cong., secs. 501, 502, 902, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR 1950 Supp.

GENERAL

SECTION 1. *Statement of purpose.* In order to reduce serious inflationary pressures and to limit the volume of new residential construction to a level which can be maintained with the materials and labor available in the light of national defense requirements, restrictions on residential real estate credit (applicable where construction was started after noon of August 3, 1950) have been imposed, with the concurrence of the Housing and Home Finance Administrator, by Regulation X (Chapter XV of this title) issued by the Board of Governors of the Federal Reserve System (hereinafter called the "Board"). Related credit restrictions (applicable to both new and old residential property) are contained in regulations of the Federal Housing Commissioner and the Administrator of Veterans' Affairs. Actions restricting residential credit were taken under the authority of Title VI of the Defense Production Act of 1950, approved September 8, 1950, and of Executive Order 10161, issued September 9, 1950. In order to assist, to the maximum possible extent under existing legislation, the provision of housing needed for in-migrant defense workers or military personnel and their families where the failure to provide such housing would impede national defense activities, residential credit restrictions are relaxed or modified in critical defense housing areas designated by the Housing and Home Finance Administrator. Residential credit controls in such areas continue to be administered by the Board with respect to real estate construction credit which is subject to said Regulation X and by the Federal Housing Administration and the Veterans' Administration, respectively, with respect to residential real estate credit assisted under the programs of those two agencies. Accordingly, the schedules showing relaxed or modified credit terms made available in critical defense housing areas are announced by those agencies for their respective spheres of administrative responsibility.

It is the purpose of this Regulation CR 3, issued by the Housing and Home Finance Administrator, to prescribe uniform conditions and procedures under which such relaxed credit terms are made available in the designated critical defense housing areas in order to assure that the housing finance under the relaxed credit terms announced by the Board, the Federal Housing Administration and the Veterans' Administration will meet the needs of the in-migrant defense workers or military personnel and their families and in order to avoid contributing unduly to inflationary pressures, particularly insofar as they may affect the price or rental of new or existing houses or of building materials.

This regulation does not supersede or in any way modify HHFA Regulation CR 2, which concerns relaxed credit terms for areas affected by the Savannah River, Paducah (Kentucky), and Idaho Reactor Testing Station installations of the Atomic Energy Commission.

SEC. 2. *What this regulation does.* This regulation defines and lists critical defense housing areas and prescribes, among other things, who may apply for exceptions from residential credit restrictions in such areas; the type of housing eligible; where and how to apply; the basis on which applications will be approved; the rules which applicants and their successors in interest must abide by with respect to holding and offering certain housing for rent or sale to persons engaged in national defense activities and with respect to rents or sales prices which may be charged; and the manner in which eligibility will be determined for the occupancy or purchase of housing for which credit restrictions have been relaxed.

SEC. 3. *Geographical areas affected.* The special exceptions from residential credit restrictions which are authorized under this regulation will be applicable only to credit with respect to residential property located in "critical defense housing areas" as that term is defined in section 7 of this regulation. A critical defense housing area will be designated as such by the Housing and Home Finance Administrator only where such area has previously been designated as a "critical defense area" by the Defense Production Administrator. Among the criteria applied by the Defense Production Administrator in designating critical defense areas is the requirement that there be a serious shortage of housing for defense workers or military personnel required to be brought into such areas to carry out essential national defense activities.

SEC. 4. *Type of housing eligible.* The special exceptions from residential credit restrictions which are authorized under this regulation for critical defense housing areas will be applicable only to credit with respect to family dwellings which are suitable and intended for year round occupancy. Only single-family dwellings may be financed pursuant to the exceptions for sales housing and other housing to be built for owner-occupancy referred to in sections 13 through 17 of

this regulation. Housing to be held for rent and to be financed pursuant to the exceptions governing rental housing set out in sections 8 through 12 of this regulation may be of any type which meets the requirements of the first sentence of this section. Thus, it may consist of a single-family home or single-family homes (whether detached, semi-detached, or row houses), two- to four-family structures, or other multi-family structures.

SEC. 5. *Programming by HHFA.* Relaxations of residential real estate credit restrictions will be programmed for each critical defense housing area by the Housing and Home Finance Agency on the basis of housing market field surveys, and exceptions from credit restrictions will be approved in accordance with schedules of housing needed from time to time to serve in-migrant defense workers or military personnel employed or stationed at defense plants or installations in the area. Detailed program schedules will be announced for each critical defense housing area. Such schedules will relate to the general location of the housing within such critical defense housing area, the number and types of rental, sales or other units required, the size (by number of bedrooms) of such units, the levels of rentals or sales prices which must be achieved if the housing is to meet the needs of the persons for whom it is intended and similar factors. Exceptions from credit restrictions will be approved pursuant to the detailed procedures, standards, and conditions set out below.

SEC. 6. *Beginning of construction; time limit.* When an application for an exception from credit restrictions is approved under sections 8 through 12 or sections 13 through 17 of this regulation, construction of the housing described in the application should be begun not later than sixty calendar days after the date of the approval, and should be continued with reasonable diligence thereafter. This approval automatically expires unless construction is begun either (a) within such sixty-day period or (b) within any extension of that period which shall have been approved by the local office of the Federal Housing Administration, and is continued with reasonable diligence.

SEC. 7. *Definitions.* As used in this regulation, the following words, terms, and phrases shall have the meaning set out in this section:

(a) *Beginning of construction.* For the purposes of this regulation, construction shall be deemed to be begun when any essential materials which are to be an integral part of the structure have been incorporated into the site in a permanent form (for example, when footings or other foundations have been poured or placed).

(b) *Completion of construction.* For the purposes of this regulation a dwelling unit shall be deemed to be completed when, in conformity with general practice in the community, it is ready for occupancy.

(c) *Critical defense housing area.* A "critical defense housing area" (for purposes of this regulation) means an area designated as such by the Housing and Home Finance Administrator in the Appendix to this regulation. Unless a different standard is specified in the Appendix with respect to a particular area listed, each area named in the Appendix shall be deemed to include surrounding areas within a maximum practicable commuting distance of a defense plant or installation listed in a "defense activity list" for the area. (This definition does not determine where housing may be located within a critical defense housing area for which exceptions from credit restrictions are issued. The general location of such housing is determined by program schedules announced in accordance with section 5.)

(d) *Defense activity list.* The "defense activity list" means the list of defense plants or installations for each critical defense housing area on file in the FHA office for the district in which the such area is located.

(e) *Eligible defense worker.* An "eligible defense worker" means a civilian or a member of the armed forces employed or stationed at a defense plant or installation listed on the defense activity list for the particular critical defense housing area who is an in-migrant as defined herein and who requires and is without adequate family housing. However, a member of the armed forces otherwise eligible is an eligible defense worker notwithstanding that he moved, or brought his family, from beyond maximum practicable commuting distance prior to December 19, 1950.

(f) *Family dwelling.* A "family dwelling" means a house or apartment designed for residential occupancy by two or more persons and which contains kitchen facilities or space designed for kitchen facilities. It does not include hotels, motels, rooming houses, club houses, fraternity or sorority houses, dormitories, or any other structure designed or used either for transient accommodations or for occupancy by single persons or by non-family groups.

(g) *In-migrant.* An "in-migrant" is a person (1) whose residence is beyond maximum practicable commuting distance from his place of work or (2) who has since December 19, 1950 (or such later date as announced for the critical defense housing area) moved, or brought his family, from beyond maximum practicable commuting distance from his place of work.

(h) *Maximum practicable commuting distance.* "Maximum practicable commuting distance" means a distance within which it is possible to commute daily to the place of employment by established common carrier or by private transportation at a cost per person of not more than $1.00 per round trip and with normal traveling time of not more than three hours per round trip, unless another cost or time shall have been announced for the critical defense housing area.

(i) *Sales price.* "Sales price" means the total consideration paid (including any charge made a condition to the sale) by the buyer for the dwelling accommodations with accompanying land and improvements. The only items which are excluded are those incidental charges, such as closing costs and brokerage fees or commissions or charges, which buyers of such dwelling accommodations customarily assume in the community where such accommodations are located, and which actually have been incurred for services rendered at the buyer's or seller's request in connection with the sale.

HOUSING TO BE HELD FOR RENT

SEC. 8. *Who may apply for exception from credit restrictions.* With respect to housing programmed by the Housing and Home Finance Administrator for rental occupancy, application for a special defense exception from residential credit restrictions may be made only by a person (including a corporation, partnership, trust, or other legal entity) who is the owner of, or otherwise has effective control over, the land on which there is proposed to be erected a new family dwelling or dwellings which will be held for rental to eligible occupants as defined below. Effective control over the land, for the purposes of this section, includes control through ownership, a firm contract to purchase, an option to purchase which may be exercised at the will of the applicant, or a long-term lease for a term of not less than 50 years.

SEC. 9. *Where and how builders should apply.* Application for an exception from credit restrictions with respect to housing to be held for rental should be made to the appropriate local office of the Federal Housing Administration on HHFA Form No. H–1052. (Local offices of the Federal Housing Administration, which is a constituent agency of the Housing and Home Finance Agency, will receive and process such applications on behalf of the Housing and Home Finance Administrator without regard to whether or not the housing in question will be financed with the aid of FHA mortgage insurance.) An original and three signed copies of the application form must be submitted for each application. Each application must contain a statement that the applicant has a commitment or other assurance from a lending institution or other lender that such lender will, if the application is approved, provide the financing for the residential property, including the proposed improvements, described in the application. If the application is approved, two copies of the application form will be returned to the applicant endorsed to indicate that an exception from the credit restrictions has been approved. One of these copies must be submitted to the lending institution or other lender making the loan. Such lender need not necessarily be the lending institution or proposed lender referred to in the application. The applicant will also be notified if the application is rejected.

SEC. 10. *Approval of application.* Applications made under sections 8 through 12 may be approved in accordance with this regulation and program schedules and procedures adopted from time to time by the Housing and Home Finance Administrator. Unless otherwise specifically approved in writing by the local office of the FHA, exceptions from credit restrictions in accordance with an approved application under this regulation

shall apply only to credit extended to the applicant named in such approved application.

SEC. 11. *Rules and conditions applicable.* (a) In the event that an application for an exception from credit restrictions is approved pursuant to sections 8 through 12, the applicant is hereby required to notify the appropriate local office of the Federal Housing Administration in writing when the construction of the dwelling units described in the application is begun and when any such dwelling unit is completed and, for a period of five years after the completion of the housing, to:

(1) Publicly offer any such dwelling unit for rent, for a period of at least thirty calendar days after the FHA has been given notification of completion with respect to such unit as required by this paragraph and for a period of at least thirty calendar days after such unit subsequently becomes vacant, to eligible defense workers unless the unit is sooner rented to such a worker;

(2) Require, upon the renting of any such dwelling unit to an eligible defense worker, that such worker fill out in duplicate and submit to the applicant an occupancy eligibility affidavit on HHFA Form No. H–1054 (which shall be further executed by the applicant, as indicated therein, who shall forward one copy to the local office of FHA and retain one copy);

(3) Fill out in duplicate a landlord's affidavit on HHFA Form No. H–1056 in case such dwelling unit has been publicly offered in good faith for rent to eligible defense workers, as required by subparagraph (1) of this paragraph, but subsequently rented to a person other than an eligible defense worker (one copy of such affidavit shall be forwarded to the local office of FHA and one copy shall be retained by the applicant);

(4) Charge not more than the rent or rents specified in the application or not more than such higher rents as the Housing and Home Finance Administrator or his designee shall have approved on the basis of hardship to the applicant or subsequent owner;

(5) Hold the dwelling unit or units for rent unless (i) the property is being sold to a purchaser for investment purposes rather than for his own occupancy, or (ii) a period of at least sixty calendar days has elapsed after the FHA has been given notification of completion of such unit as required by this paragraph or after the unit has subsequently become vacant, and the public offer of such unit for rent at the approved rental during said sixty days has not produced a tenant;

(6) Comply with any agreements or conditions made a part of the application, HHFA Form No. H–1052, as approved; and

(7) Require that the purchaser, if the property is sold pursuant to subdivision (i) of subparagraph (5) of this paragraph, agree in writing to abide by all the applicable provisions and conditions set forth in this regulation, including this paragraph, which shall be applicable to all successive sales pursuant to said subdivision (i) of subparagraph (5) of this paragraph made by the first and all successive purchasers for investment purposes. Written notifications required by this paragraph to be given to the FHA shall be deemed to be given as of the date they are received by the Federal Housing Administration or, if mailed, as of the date they are postmarked.

(b) No purchaser of property for investment purposes (pursuant to paragraph (a) (5) (i) of this section) shall occupy a dwelling unit in such property unless it contains two or more family dwelling units and such purchaser is himself eligible for occupancy of a dwelling pursuant to section 12 of this regulation or unless such occupancy is pursuant to paragraph (c) of this section.

(c) Notwithstanding any provision of this section, if a parcel of real property contains five or more family dwelling units required to be held for rent under sections 8 through 12 of this regulation, the owner of said parcel, or a person actually employed as a resident manager or janitor of said dwelling units, may occupy one of such units. Two such units may be occupied by such owners, resident managers, or janitors if the property required to be held for rent pursuant to said sections contains not less than 20 family dwelling units, and an additional unit may be so occupied for every additional 30 family dwelling units above 20.

(d) Sales in the course of judicial or statutory proceedings in connection with foreclosures are not subject to the provisions of this section.

SEC. 12. *Eligibility for tenancy.* Except as otherwise provided in section 11, above, for five years after the completion of a dwelling unit which is required to be held for rent under sections 8 through 12 of this regulation no person other than an "eligible defense worker", as defined in paragraph (e) of section 7 of this regulation, or his family shall be eligible for tenancy or occupancy of such dwelling unit.

SALES HOUSING AND OTHER HOUSING TO BE BUILT FOR OWNER-OCCUPANCY

SEC. 13. *Who may apply for exception from credit restrictions.* With respect to housing in a critical defense housing area which may be programmed by the Housing and Home Finance Administrator for sale to, or construction by, prospective owner-occupants, application for a special defense exception from residential credit restrictions may be made only by (i) an "eligible defense worker" (as defined in paragraph (e) of section 7 of this regulation) who is the owner of, or otherwise has effective control over, the land on which he proposes to erect a new family dwelling for his own occupancy or (ii) a person (including a corporation, partnership, trust, or other legal entity) who is the owner of, or otherwise has effective control over, the land on which he proposes to erect a new family dwelling or dwellings for sale to eligible defense workers. Effective control over the land, for the purposes of this section, includes control through ownership, a firm contract to purchase, an option to purchase which may be exercised at the will of the applicant, or a long-term lease for a term of not less than 50 years.

SEC. 14. *Where and how builders should apply.* Application for an exception from credit restrictions with respect to a dwelling or dwellings to be erected for owner-occupancy should be made to the appropriate local office of the Federal Housing Administration on HHFA Form No. H–1053. Procedures for the submission, processing and subsequent disposition of such applications will be the same as those set forth in section 9 of this regulation for applications for exceptions from credit restrictions with respect to housing to be held for rental.

SEC. 15. *Approval of applications.* Applications made under sections 13 through 17 may be approved in accordance with this regulation and program schedules and procedures adopted from time to time by the Housing and Home Finance Administrator. Unless otherwise specifically approved in writing by the local office of the FHA, exceptions from credit restrictions in accordance with an approved application under this regulation shall apply only to credit extended to the applicant named in such approved application.

SEC. 16. *Rules and conditions applicable.* (a) In any case where an application for an exception from credit restrictions is approved pursuant to sections 13 through 17, with respect to the erection of a dwelling or dwellings for sale, the applicant is hereby required to notify the appropriate local office of the Federal Housing Administration in writing when the construction of the dwelling or dwellings described in the application is begun and when each such dwelling is completed and, for a period of five years after the completion of the dwelling or dwellings, to:

(1) Publicly offer each such dwelling for sale for a period of at least sixty calendar days after the FHA has been given notification of completion of such dwelling as required by this paragraph, to eligible defense workers unless the dwelling is sooner purchased by such a worker;

(2) Require, upon the sale of any such dwelling to an eligible defense worker, that such worker fill out in duplicate and submit to the applicant an occupancy eligibility affidavit on HHFA Form No. H–1054 (which shall be further executed by the applicant, as indicated therein, who shall forward one copy to the local office of FHA and retain one copy);

(3) Fill out in duplicate a seller's affidavit on HHFA Form No. H–1057 in case any such dwelling has been publicly offered in good faith for sale to eligible defense workers, as required by subparagraph (1) of this paragraph, but subsequently sold on excepted credit terms to a person other than an eligible defense worker (one copy of such affidavit shall be forwarded to the local office of FHA and one copy retained by the applicant or subsequent owner);

(4) Charge not more than the sales price or prices specified in the application for such dwelling or dwellings or such higher price or prices as the Housing and Home Finance Administrator or his designee shall have approved on the basis of hardship to the applicant or subsequent owner.

(5) Comply with any agreements or conditions made a part of the application, HHFA Form No. H-1053, as approved; and

(6) Require that each purchaser agree in writing in the event of subsequent sale by him to abide by all the applicable provisions and conditions set forth in this regulation, including this paragraph, which shall be applicable to all successive sales of said dwelling or dwellings.

(b) In any case where an application for an exception from credit restrictions is approved pursuant to sections 13 through 17 with respect to the erection of a dwelling for occupancy by the applicant, the applicant is hereby required to notify the appropriate local office of the Federal Housing Administration with respect to the beginning and completion of construction as required in paragraph (a) of this section and, in the event of sale by him within a period of five years after the completion of the dwelling, to give advance notification in writing to such local office of the FHA that he proposes to sell such dwelling and thereafter to comply with subparagraphs (1), (2), (3), (5), and (6) of paragraph (a) of this section except that the notification to FHA of completion referred to in said subparagraph (1) shall be deemed to mean the notification to FHA required by this paragraph (b). Written notifications required by this section to be given to the FHA shall be deemed to be given as of the date they are received by the Federal Housing Administration or, if mailed, as of the date they are postmarked.

(c) Sales in the course of judicial or statutory proceedings in connection with foreclosures are not subject to the provisions of this section.

SEC. 17. *Eligibility for purchase.* Except as otherwise provided in section 16, above, for five years after the completion of a dwelling for which an exception from credit restrictions has been issued under the provisions of sections 13 through 17 of this regulation no person except an "eligible defense worker" as defined in paragraph (e) of section 7 of this regulation shall be eligible for purchase of such dwellings.

SPECIAL CREDIT EXCEPTIONS FOR PURCHASERS OF OTHER HOUSING

SEC. 18. *Approval of special credit exceptions.* In addition to the exceptions from credit restrictions approved on the application of builders in accordance with the preceding sections of this regulation, the Housing and Home Finance Agency may, under unusual circumstances in some areas, program or approve exceptions from credit restrictions for the purchase, by eligible defense workers, of housing which shall have been built in a critical defense housing area without such approved applications by builders. This will be limited to cases where the Housing and Home Finance Agency determines that the housing needs of such defense workers cannot otherwise be met and that such exceptions will not result in undue inflationary pressures upon the prices of existing housing in the area or in other housing programmed for the area under this regulation being made available to persons other than defense workers.

SEC. 19. *Conditions and requirements.* Any relaxation of credit restrictions under the special circumstances referred to in section 18 shall be approved in accordance with such procedures and subject to such conditions and requirements as shall be determined by the Housing and Home Finance Agency to be consistent with the provisions of this regulation and announced for the critical defense housing area, and compliance with conditions and requirements imposed pursuant to this section is hereby required.

The reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

This regulation is effective as of the 2d day of May 1951.

[SEAL] RAYMOND M. FOLEY,
Housing and Home Finance Administrator.

APPENDIX 1 TO CR 3, MAY 2, 1951

CRITICAL DEFENSE HOUSING AREAS [1]

Critical defense housing area, State, and date designated

1. San Diego, California, May 2, 1951.

[F. R. Doc. 51-5126; Filed, May 1, 1951; 12:00 m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 35—PROVISIONS APPLICABLE TO THE SEVERAL CLASSES OF MAIL MATTER

MAILABILITY OF WARFARIN

Amend § 35.15 *Mailable nonintoxicating, noninflammable, and noninjurious matter,* by adding a new paragraph (i) to read as follows:

(i) *Mailability of warfarin.* (1) Warfarin, an anti-coagulant rodenticide, has been admitted to the mails in the concentrate form (0.5 percent) in quantities not exceeding eight ounces in one parcel if labeled in accordance with the Federal Insecticide, Fungicide and Rodenticide Act. This amount will make 10 pounds of the bait form (0.025 percent). However, the bait form may be accepted in quantities not exceeding 12 one pound packages in one parcel.

(2) The packages must be individually cushioned in a strong tight mailing carton such as a 200 pound test fiberboard carton, with partitions, inner liner and top and bottom pads of doublefaced corrugated fiberboard which will bear safe transmission in the mails. All seams of the carton must be tightly sealed and the carton marked "Poisonous Composition."

(R. S. 161, 396, sec. 24, 20 Stat. 361, secs. 304, 309, 42 Stat. 24, 25; 5 U. S. C. 22, 369, 39 U. S. C. 250)

[SEAL] J. M. DONALDSON,
Postmaster General.

[F. R. Doc. 51-5021; Filed, May 1, 1951; 8:45 a. m.]

[1] These areas are in addition to three areas of Atomic Energy Commission installations in which exceptions from residential credit restrictions are issued pursuant to CR 2 of the Housing and Home Finance Agency.

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

Subchapter D—Freight Forwarders

[No. 29493]

PART 400—AGREEMENTS, FORWARDERS—MOTOR COMMON CARRIERS

REVOCATION OF PART

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 24th day of April A. D. 1951.

In the matter of vacating and setting aside the order and discontinuing the proceeding.

It appearing, that with its report of September 24, 1943, the Commission, pursuant to the then effective section 409 of the Interstate Commerce Act, 60 Stat. 21, entered its order prescribing certain terms and conditions under which freight forwarders subject to part IV of the act might utilize the services and instrumentalities of common carriers by motor vehicle subject to part II of the act, which order, as subsequently modified, is to become effective May 1, 1951;

It further appearing, that the said section 409 was amended December 20, 1950, by Public Law 881, 81st Congress, 64 Stat. 1113, said amendment having the effect of repealing the statutory provisions under which this proceeding was instituted, and that pursuant to said Public Law 881 the Commission, on March 5, 1951, by a separate procedure, issued a notice of proposed rule making (16 F. R. 2367) looking to the prescription of rules and regulations for the filing with the Commission of contracts between freight forwarders and motor common carriers subject to the act governing the utilization by such forwarders of the services and instrumentalities of such common carriers;

And it further appearing, that the enactment of Public Law 881 has removed the statutory basis for further proceedings herein; that the said order of September 24, 1948, as subsequently modified, should therefore be vacated and set aside; and that the proceeding should be discontinued:

It is ordered, That the order (§§ 400.1 and 400.2) entered herein on September 24, 1948 (13 F. R. 5861), prescribing terms and conditions, as subsequently modified (13 F. R. 8713; 14 F. R. 1824, 3918, and 5806; and 15 F. R. 1105, 3285, 5849, and 6858), be, and it is hereby, vacated and set aside; and that the proceeding be, and it is hereby, discontinued.

Notice of this order shall be given to the general public by depositing a copy hereof in the office of the Secretary of the Commission at Washington, D. C., and by filing with the Director of the Federal Register.

(56 Stat. 285; 49 U. S. C. 1003. Interpret or apply 56 Stat. 290, as amended; 49 U. S. C. 1009)

By the Commission.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 51-5050; Filed, May 1, 1951; 8:51 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Bureau of Internal Revenue

[26 CFR, Parts 19, 29]

TAXATION OF EMPLOYEE BENEFICIARIES OF CERTAIN PENSION TRUSTS

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 62 of the Internal Revenue Code (53 Stat. 32; 26 U. S. C. 62) and pursuant to the provisions of Public Law 378 (81st Cong., 1st Sess.) approved October 25, 1949.

[SEAL] GEO. J. SCHOENEMAN,
Commissioner of Internal Revenue.

In order to conform Regulations 111 (26 CFR Part 29), and Regulations 103 (26 CFR Part 19), relating to the income tax, to Public Law 378 (81st Cong., 1st Sess.), approved October 25, 1949, relating to taxation of employee beneficiaries of certain pension trusts, such regulations are amended as follows:

PARAGRAPH 1. Section 29.22 (b) (2)–5 is amended as follows:

(A) By amending the third sentence of such section to read as follows: "Except as provided in section 165 (d), if an employer purchases an annuity contract which is not under a plan with respect to which his contribution is deductible under section 23 (p) (1) (B), the amount of such contribution shall be included in the income of the employee in the taxable year during which such contribution is made, if the employee's rights under the annuity contract are nonforfeitable, except for failure to pay future premiums, at the time the contribution is made."

(B) By inserting immediately after the first paragraph of such section the following new paragraph:

If an employer has purchased annuity contracts and transferred the same to a trust or if an employer has made contributions to a trust for the purpose of providing annuity contracts for his employees as provided in section 165 (d) (see § 29.165–7), the amount so paid or contributed is not required to be included in the income of the employee, but any amount received or made available to the employee under the annuity contract shall be includible in the gross income of the employee in the taxable year in which received or made available. In such case the amount paid or contributed by the employer shall not constitute consideration paid by the employee for such annuity contract in determining the amount of annuity payments required to be included in his gross income under section 22 (b) (2) unless the employee has paid income tax for any taxable year beginning prior to January 1, 1949, with respect to such payment or contribution by the employer for such year and such tax is not credited or refunded to the employee. In the event such tax has been paid and not credited or refunded the amount paid or contributed by the employer for such year shall constitute consideration paid by the employee for the annuity contract in determining the amount of the annuity required to be included in the income of the employee under section 22 (b) (2) (A). For example, an employer in 1939 purchased and transferred to a trust meeting the requirements of section 165 (d) a life annuity contract (payable in annual installments of $5,000) for an employee at a cost to the employer of $50,000. If the employee included the $50,000 in his gross income for such year and paid a tax with respect thereto and if it be assumed that such year is closed so that the amount so paid cannot be credited or refunded, only $1,500 of each $5,000 yearly annuity payment to the employee will be required to be included in his gross income (3 percent of $50,000), $3,500 being exempt. If the employee should live long enough to receive as exempt $50,000, then all amounts he receives thereafter under the annuity contract would be included in gross income. If, in the foregoing case, the employee's taxable year 1939 was not closed and the employee secured a refund or credit of the tax previously paid with respect to the $50,000 premium payment made by his employer then all amounts received under the annuity contract will be required to be included in his gross income.

PAR. 2. There is inserted immediately preceding § 29.165–1 the following:

PUBLIC LAW 378 (EIGHTY-FIRST CONGRESS, FIRST SESSION), APPROVED OCTOBER 25, 1949

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

SEC. 5. EMPLOYEE ANNUITY CONTRACTS.

(a) Section 165 of the Internal Revenue Code (relating to employee trusts) is hereby amended by adding at the end thereof the following new subsection:

"(d) *Certain employees' annuities.* Notwithstanding subsection (c) or any other provision of this chapter, a contribution to a trust by an employer shall not be included in the income of the employee in the year in which the contribution is made if:

"(1) Such contribution is to be applied by the trustee for the purchase of annuity contracts for the benefit of such employee;

"(2) Such contribution is made to the trustee pursuant to a written agreement entered into prior to October 21, 1942, between the employer and the trustee, or between the employer and the employee; and

"(3) Under the terms of the trust agreement the employee is not entitled during his lifetime, except with the consent of the trustee, to any payments under annuity contracts purchased by the trustee other than annuity payments.

The amount so contributed by the employer shall not constitute consideration paid by the employee for such annuity contract in determining the amount of annuity payments required to be included in his gross income under section 22 (b) (2); except that if the tax imposed by this chapter for any taxable year beginning before January 1, 1949, has been paid by the employee with respect to such contribution for such year, and not credited or refunded, the amount so contributed for such year shall constitute consideration paid by the employee for such annuity contract. This subsection shall have no application with respect to amounts contributed to a trust after June 1, 1949, if the trust on such date was exempt under subsection (a). For the purposes of this subsection, amounts paid by an employer for the purchase of annuity contracts which are transferred to the trustee shall be deemed to be contributions made to a trust or trustee and contributions applied by the trustee for the purchase of annuity contracts; the term 'annuity contracts purchased by the trustee' shall include annuity contracts so purchased by the employer and transferred to the trustee; and the term 'employee' shall include only a person who was in the employ of the employer, and was covered by the agreement referred to in paragraph (2), prior to October 21, 1942."

(b) The amendment made by subsection (a) shall be applicable to taxable years beginning after December 31, 1938.

PAR. 3. The first sentence of § 29.165–6 is amended to read as follows: "Section 165 (b), (c) and (d) relates to the taxation of the beneficiary of an employee's trust."

PAR. 4. Section 29.165–7 is amended as follows:

(A) By striking out the heading and the first sentence of such section and inserting in lieu thereof the following:

§ 29.165–7 *Treatment of beneficiary of a trust not exempt under section 165 (a)*—(a) *In general.* Generally, any contribution made by an employer on behalf of an employee to a trust during a taxable year of the employer which ends within or with a taxable year of the trust for which the trust is not exempt under section 165 (a), shall be included in income of the employee for his taxable year during which the contribution is made if the employee's beneficial interest in the contribution is nonforfeitable at the time the contribution is made. But see section 165 (d) and paragraph (b) of this section.
* * *

(B) By adding at the end of such section the following new paragraph:

(b) *Effect of section 165 (d).* If the requirements of section 165 (d) are met, a contribution made by an employer on behalf of an employee to a trust which is not exempt under section 165 (a) shall not be included in the income of the employee in the year in which the con-

tribution is made. Such contribution will be taxable to the employee, when received in later years, as an annuity. (See § 29.22 (b) (2)–5.) The intent and purpose of section 165 (d) is to give those employees, covered under certain nonexempt trusts to which such section applies, essentially the same tax treatment as those covered by trusts qualifying under section 165 (a).

Every person claiming the benefit of section 165 (d) must be able to demonstrate to the satisfaction of the Commissioner that all of the provisions of such section are met. The taxpayer must produce sufficient evidence to prove:

(1) That, prior to October 21, 1942, he was employed by the particular employer making the contribution in question and was at such time definitely covered by a written agreement, entered into prior to October 21, 1942, between himself and the employer, or between the employer and the trustee of a trust established by the employer prior to October 21, 1942, and that the contribution by the employer was made pursuant to such agreement. The fact that an employee may have been potentially covered is not sufficient. Evidence that the employment was entered into, or the agreement executed, "as of" a date prior to October 21, 1942, or that the agreement or trust instrument which did not theretofore meet the requirements of section 165 (d) was modified or amended after October 20, 1942, so as to come within the provisions of such section, will not satisfy the requirements of section 165 (d).

(2) That such contribution, pursuant to the terms of such agreement, was to be applied for the purchase of an annuity contract for the taxpayer. In the case of a contribution by the employer of an annuity contract purchased by such employer and transferred by him to the trustee of the trust, evidence should be presented to prove that such contract was purchased for the taxpayer by the employer pursuant to the terms of a written agreement between the employer and the employee or between the employer and the trustee, entered into prior to October 21, 1942.

(3) That under the written terms of the trust agreement the taxpayer is not entitled during his lifetime, except with the consent of the trustee, to any payments other than annuity payments under the annuity contract or contracts purchased by the trustee or by the employer and transferred to the trustee, and that the trustee may grant or withhold such consent free from control by the taxpayer, the employer or any other person (for definition of annuity payments, see § 29.22 (b) (2)–2). As used in section 165 (d) the phrase "if * * * under the terms of the trust agreement the employee is not entitled" means that the trust instrument must definitely and affirmatively make it impossible for the prohibited distribution to occur, whether by operation or natural termination of the trust, by power of revocation or amendment, by the happening of a contingency, by collateral arrangement, or by any other means. It is not essential that the employer relinquish all power to modify or terminate the trust but it must be impossible, except with the consent of the trustee, for any payments under annuity contracts purchased by the trust, or by the employer and transferred to the trust, to be received by the taxpayer, directly or indirectly, other than as annuity payments.

(4) The nature and amount of such contribution and the extent to which income taxes have been paid thereon prior to January 1, 1949, and not credited or refunded.

(5) If it is claimed that section 165 (d) applies to amounts contributed to a trust after June 1, 1949, the taxpayer must prove to the satisfaction of the Commissioner that the trust did not, on June 1, 1949, qualify for exemption under section 165 (a). Where an employer buys an annuity contract which is transferred to the trustee, the date of the purchase of the annuity contract and not the date of the transfer to the trustee is the controlling date in determining whether or not the contribution was made to the trust after June 1, 1949.

PAR. 5. The above amendments to Regulations 111 (26 CFR Part 29), which regulations are applicable to taxable years beginning after December 31, 1941, are hereby made applicable to any taxable year beginning after December 31, 1938, and prior to January 1, 1942, which is covered by Regulations 103 (26 CFR Part 19).

[F. R. Doc. 51–5066; Filed, May 1, 1951; 8:53 a. m.]

[26 CFR, Part 192]

FERMENTED MALT LIQUOR

NOTICE OF PROPOSED RULE-MAKING

A notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under authority of 53 Stat. 375; 26 U. S. C. 3176.

[SEAL] GEO. J. SCHOENEMAN,
Commissioner of Internal Revenue.

1. Regulations 18, approved May 20, 1940 (26 CFR Part 192), as amended, are further amended by adding Article XXXV and §§ 192.273 through 192.280, as follows:

SAMPLES OF FERMENTED MALT LIQUOR

§ 192.273 *General.* Samples of fermented malt liquor may be removed, without payment of tax, as provided in §§ 192.274–192.278, by brewers, either from the brewery or from the bottling house to a laboratory for analytical purposes (including organoleptic examination) to determine the character or quality of the product.

(53 Stat. 375; 26 U. S. C. 3176)

§ 192.274 *Application.* Whenever a brewer desires to remove samples of fermented malt liquor without payment of tax, for analytical purposes, he shall file application, in triplicate, with the district supervisor. The application shall be serially numbered, beginning with number "1" and running consecutively thereafter. The application shall set forth specifically the size, kind and number of samples to be removed, the period during which the samples shall be removed, and the name and address of the laboratory to which the samples will be removed for analysis. Where it is desired to remove samples regularly the application may be made for that purpose. The number and size of the samples must be restricted to the minimum necessary for the purpose. A statement of the necessity for the analysis of samples and for the number and size of such samples shall be incorporated in the application. The brewer shall also incorporate in the application a statement that the samples covered thereby will not be used for purposes other than laboratory analysis.

(53 Stat. 375; 26 U. S. C. 3176)

§ 192.275 *Approval of application.* The district supervisor must satisfy himself as to the need for the number and size of samples desired and the legitimacy of the purpose for which they are to be used before approving the application. The district supervisor, upon approval or disapproval of the application, shall return one copy to the brewer, forward one copy to the Commissioner, and retain the original in his office. Any approved application may be terminated if the Commissioner or the district supervisor determines that such action is warranted: *Provided,* That, except in cases involving willfulness or where the public interest requires otherwise, the brewer shall be notified in writing of the facts or conduct warranting such action and be accorded an opportunity to demonstrate or achieve compliance with all lawful requirements.

(53 Stat. 375; 26 U. S. C. 3176)

§ 192.276 *Labeling.* Each bottle or other immediate container of fermented malt liquor to be removed, without payment of tax, for analytical purposes shall be labeled to show the nature and quantity of the contents, the name and address of the laboratory to which it will be removed, and the name and address of the brewer. The label shall bear the statement, "Sample for laboratory analysis only—not for sale."

(53 Stat. 375; 26 U. S. C. 3176)

§ 192.277 *Records.* A separate record shall be maintained showing by date, the quantity of fermented malt liquor removed pursuant to an approved application and the serial number of such application. Proper credit entry for the total quantity so removed during the month must be made in the summary on Form 103.

(53 Stat. 375; 26 U. S. C. 3176)

§ 192.278 *Residues of samples.* Residues or remnants of samples remaining after laboratory analysis which are not to be retained as laboratory specimens or for comparative purposes must be destroyed or returned to the brewery premises. The samples or the residues thereof may not, in any event, be sold, or disposed of otherwise.

(53 Stat. 375; 26 U. S. C. 3176)

§ 192.279 *Analysis on brewery premises.* Applications need not be filed where samples are to be taken for analysis in the brewer's laboratory located on the brewery premises.

(53 Stat. 375; 26 U. S. C. 3176)

§ 192.280 *Taxpayment.* Any samples of fermented malt liquor removed or used otherwise than as authorized in §§ 192.273–192.279 shall be subject to taxpayment in accordance with this part.

(53 Stat. 375; 26 U. S. C. 3176)

2. The purposes of the proposed amendment are to authorize brewers to remove samples of fermented malt liquor, without payment of tax, either from the brewery or bottling house, for analytical purposes (including organoleptic examination), and to prescribe the procedure governing such removals.

3. This Treasury decision shall be effective on the 31st day after the date of its publication in the FEDERAL REGISTER.

[F. R. Doc. 51-5064; Filed, May 1, 1951; 8:53 a. m.]

DEPARTMENT OF AGRICULTURE

Bureau of Animal Industry

[9 CFR, Part 151]

RECOGNITION OF BREEDS AND BOOKS OF RECORD OF PUREBRED ANIMALS

HOGS

Notice is hereby given that the Secretary of Agriculture, pursuant to the authority vested in him by section 201, paragraph 1606 of the Tariff Act of 1930, as amended (19 U. S. C. and Supp. III, sec. 1201, par. 1606), proposes to recognize the Wessex Saddleback Section of the book of record entitled "Herd Book of the National Pig Breeders' Association," published under the auspices of the National Pig Breeders' Association, Victoria House, Southampton Row, London, W. C. 1, England (A. R. Bennett, secretary), and to amend the regulations governing the recognition of breeds and books of record of purebred animals (9 CFR Part 151, as amended) by adding under the subheading "Hogs" in 9 CFR 151.10 (a), as amended, the name "Wessex Saddleback" to the list of breeds in the said herd book which are currently so recognized.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendment may do so by filing them with the Chief of the Bureau of Animal Industry, Agricultural Research Administration, United States Department of Agriculture, Washington 25, D. C., within thirty days after the date of publication of this notice in the FEDERAL REGISTER.

(Sec. 201, Par. 1606, 46 Stat. 673 as amended by 62 Stat. 161; 19 U. S. C. and Supp. III, Sec. 1201, Par. 1606)

Done at Washington, D. C., this 26th day of April 1951.

[SEAL] CHARLES F. BRANNAN, *Secretary of Agriculture.*

[F. R. Doc. 51-5035; Filed, May 1, 1951; 8:48 a. m.]

Production and Marketing Administration

[7 CFR, Part 907]

[Docket No. AO-212-A2]

MILK IN THE MILWAUKEE, WIS., MARKETING AREA

DECISION WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND A PROPOSED ORDER AMENDING THE ORDER NOW IN EFFECT REGULATING THE HANDLING

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Milwaukee, Wisconsin, on April 17, 1951, pursuant to notice thereof which was issued on April 11, 1951 (16 F. R. 3229).

The material issues of record related to:

1. The proposed deletion of provisions relating to the computation of "base milk," and "excess milk," and payment therefor.

2. The emergency character of marketing conditions and the need for immediate change in the order provisions.

Findings and conclusions. The following findings and conclusions on the issues decided herein are hereby made upon the basis of the record of the hearing:

1. The order should be amended by deletion of all provisions for computation and payment of base and excess prices. Amended in this way the order will then require handlers to pay to each producer not less than a uniform price based upon the handlers utilization of producer milk. From the record it is clear that under existing circumstances this basis of payment will be more satisfactory and equitable to all concerned than base and excess pricing and payment as presently provided. All other provisions of the order relating to the base and excess plan are retained. These have to do with the formation of bases by producers. These provisions should remain intact because the testimony shows no intent to eliminate the base plan and it appears that the unsatisfactory effects of the plan come from the price computation and payment sections. Deletion of the latter will free producer prices from the serious distortion which would in some cases result from their application during the period that may transpire until further hearing.

Both producers and handlers urged that the computation and payment of base and excess prices be suspended until the relevant order provisions can be re-examined and revised. The provisions for pricing base and excess milk during the April–July 1951 period would result in extreme and unreasonable disparity in prices received by producers. This is caused by the fact that in some plants the excess milk would be greatly over-priced with reference to its utilization value while in other plants it would be considerably under-priced.

In extreme cases excess milk might bring more than base milk. While such an inversion of the base and excess plan might not occur, it was estimated that in one or more plants prices for excess milk would likely be disproportionately high in relation to prices paid for base milk. This could result from the order provision setting a ceiling price on base milk at the Class I price with a classification and price scheme that may result in a handler's blend or weighted average price exceeding his Class I price. The evidence indicates the blend price may exceed—sometimes by considerable amount—the Class I price in a plant receiving relatively high test milk and having relatively high Class I and Class II utilization, when Class I utilization happens to be inflated by considerable excess shrinkage or when an unusual spread exists between the Class I price and the Class IV price which affects the blend price through the classification reconciliation process. At this time, the Class IV price is from 50–60 cents per hundredweight lower relative to basic formula prices for Class I and Class II milk than it was last November when the order became effective.

In other cases, low prices of excess milk threaten market supplies. Excess milk is priced at Class IV prices which, as above noted, are abnormally low relative to basic prices. Much of the milk priced as excess is used in classes priced above Class IV. At the same time prices paid by evaporating plants and cheese factories in the milkshed are higher than the Class IV price. In addition, the Chicago blended price at locations in the Milwaukee milkshed would be higher than Milwaukee handler prices to producers with considerable excess milk. With the tightening supply and increasing demand all such producers are needed in the market. It is necessary, therefore, that the depressing effects of returning producers prices for excess milk at Class IV levels be removed.

2. The due and timely execution of the function of the Secretary under the act imperatively and unavoidably requires the omission of a recommended decision by the Assistant Administrator, Production and Marketing Administration, and the opportunity for exceptions thereto.

The conditions complained of are such that it is urgent that remedial action be taken as soon as possible. Delay beyond the minimum time required to make the order below effective would defeat the purpose of such amendments. Accordingly, the time necessarily involved in the preparation, filing, and publication of a recommended decision, and exceptions thereto, would make such relief ineffective. The omission of the recommended decision and filing of exceptions

thereto was requested by producers and handlers on the record.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the proposed marketing agreement and in the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The proposed marketing agreement and the order, as amended and as hereby proposed to be further amended, will regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial and commercial activity specified in the said marketing agreement upon which a hearing has been held.

Determination of representative period. The month of February 1951 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order amending the order, now in effect, regulating the handling of milk in the Milwaukee, Wisconsin, marketing area, in the manner set forth in the amending order below is approved or favored by producers who, during such period, were engaged in the production of milk for sale in the marketing area specified in such marketing order.

Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing agreement regulating the handling of milk in the Milwaukee, Wisconsin, Marketing Area," and "Order Amending the Order, as Amended, Regulating the Handling of Milk in the Milwaukee, Wisconsin, marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as amended, and as hereby proposed to be further amended by the order which will be published with this decision.

This decision filed at Washington, D. C., this 27th day of April 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

Order[1] Amending the Order, as Amended, Regulating the Handling of Milk in the Milwaukee, Wisconsin, Marketing Area

§ 907.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendment thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Milwaukee, Wisconsin, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof the handling of milk in the Milwaukee, Wisconsin, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, and the aforesaid order, as amended, is hereby further amended as follows:

1. Delete § 907.72, paragraph (b) of § 907.30, and paragraph (b) of § 907.80.

2. In § 907.31 (a) delete the words "including for the months of April through July such producer's deliveries of base milk and excess milk,".

3. In § 907.71 delete, in its entirety, the introductory language following the title and prior to the first colon (:) therein and substitute the following: "For each month the market administrator shall compute for each handler the uniform price per hundredweight of producer milk in the following manner".

4. In § 907.80 (a) delete the phrase "of the months of August through March" and substitute the word "month."

5. Delete § 907.90 and substitute the following:

§ 907.90 *Producer handlers.* Sections 907.40 to 907.47, 907.50 to 907.51, 907.60 to 907.61, 907.70 to 907.71, and 907.80 to 907.85, inclusive, shall not apply to a producer handler.

[F. R. Doc. 51-5067; Filed, May 1, 1951; 8:54 a. m.]

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

[7 CFR, Parts 941, 969, 991]

HANDLING OF MILK IN CHICAGO, SUBURBAN CHICAGO, AND ROCKFORD-FREEPORT, ILLINOIS, MARKETING AREAS

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVELY APPROVED MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR 900.1 et seq.), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to proposed amendments to the respective tentatively approved marketing agreements and orders, as amended, regulating the handling of milk in the Chicago, Illinois, Suburban Chicago, Illinois, and Rockford-Freeport, Illinois, marketing areas, to be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 12th day after its publication in the FEDERAL REGISTER.

A public hearing was called by the Production and Marketing Administration, United States Department of Agriculture, following a request of the Pure Milk Association, and was held January 22 through 31, 1951. The major issues presented on the record of the hearing and covered by this decision were whether the orders should be amended to provide for:

(1) The merger of the terms and provisions of orders 69 and 91 regulating the handling of milk in the Suburban Chicago and Rockford-Freeport, Illinois,

marketing area with those of order No. 41 (Chicago, Illinois, marketing area);

(2) Further expansion of the present Chicago, Illinois, marketing area to include certain additional townships not under regulation previously;

(3) Location adjustments to handlers and producers to apply to milk received at plants within 55 miles of the City Hall in Chicago and a change in the location adjustment rate for milk in zones beyond 70 miles from the City Hall in Chicago;

(4) The qualification and suspension of plants as "pool plants" based upon certain delivery requirements;

(5) Revision of the price differentials over the basic formula price for Class I milk and Class II milk (Grade A milk and Grade B milk);

(6) Revision of the formula for pricing Class IV milk;

(7) Revision of the classification of (a) ice cream and frozen dessert mixes, (b) skim milk disposed of in fluid form, and (c) certain other products;

(8) The inclusion of a "base rating" plan providing for the computation and announcement of uniform prices to be paid for "base" and "excess" milk separately; and

(9) Certain changes of an administrative character.

Findings and conclusions. The following findings and conclusions on the issues decided herein are hereby made upon the basis of the record of the hearing:

(1) The milk orders for the Chicago and Suburban Chicago marketing areas should be amended for the purpose of their consolidation into one order to be known as the "Order, as Amended, Regulating the Handling of Milk in the Chicago, Illinois, Marketing Area."

It was proposed by a producers' organization that a merger of the orders for the Chicago and Suburban Chicago marketing areas be effected.

The milk supply area for plants serving the Suburban Chicago marketing area overlaps the close-in zones of the Chicago milkshed. Farms of Suburban Chicago producers are intermingled with those of Chicago producers. Large quantities of fluid milk distributed in the Suburban Chicago market are received from Chicago approved producers at plants primarily serving the Chicago market. Such milk is sold both by Chicago handlers operating routes in the Suburban Chicago market or by Suburban Chicago handlers who buy in bulk lots as a supplement to farm receipts and distribute from their own plants. Suburban handlers have become increasingly dependent on the Chicago market for supplemental milk supplies. The quantities of Chicago approved milk finding an outlet in the suburban market have increased substantially in recent years. Suburban handlers carry a lesser percentage of producer milk in Classes III and IV than do Chicago handlers.

In recent years health regulations have been made more stringent in most communities in the Suburban market and practically all milk now sold there is sold under a "Grade A" label. While to enter the city of Chicago milk for fluid use must meet the specific approval of the Chicago health authorities, Chicago approved (Grade A) milk may be distributed in all segments of the Suburban Chicago marketing area and competes freely with Grade A milk approved by the several health authorities in the latter area. Such differences as do exist in the specific health standards for the production of Grade A milk in the two marketing areas involved are not sufficient, however, to necessitate a difference in the price systems used for milk so termed.

In the past the class prices for Grade A milk of the Chicago and Suburban marketing areas have been for all practical purposes identical with the exception of slight differences in the application of such class prices to milk in specific products and the application of location differentials to plants more than 70 miles from Chicago). The Chicago order has prorated returns to producers by means of a market-wide pool whereas the Suburban order has employed individual-handler pools for this purpose. Mainly because of the larger proportions of milk used in the higher-valued classes in Suburban plants individual-handler prices under such order generally have been higher than prices at plants under the Chicago order for similar locations within the 70-mile zone from the Chicago City Hall. These price differences have resulted in intensive competition for supply at some locations in this zone with a tendency for producers to be attracted to plants with the most favorable prices and the growth of a network of premiums and hauling subsidies paid by handlers to retain milk supplies. In this situation the burden of maintaining supplies in such area has tended to fall more heavily upon handlers under the Chicago order. The proponent association which represents about 78 percent of the producers whose farms are in such area, has found it necessary to operate special pools with respect to member milk by groups of plants under the two orders to effect a higher degree of uniformity in pricing in different localities and to prevent producers from shifting unnecessarily between markets. Price differences among Suburban handlers and between the two markets have been increasingly significant in recent years as greater quantities of Grade A milk have been needed in Suburban Chicago communities. The Suburban area covers a number of rather widely separately communities with individual marketing and hauling problems calling for adjustments to be made among markets in net returns to producers.

At present there is no common price "base" from which these adjustments by localities can be made in any logical pattern. The present variations in minimum uniform prices under the two orders (and even within the framework of the Suburban order itself) require revision of such necessary adjustments outside the order individually as relationships of order prices vary. This results in continuous price problems within the close-in production area. In contrast, a uniform minimum price to all producers in this area would provide an opportunity for making whatever supplementary adjustments may be appropriate without the necessity of having to allow also for marked variations in minimum order prices and would result in more orderly marketing.

The hearing record substantiates the proposed deletion of the following townships from the newly defined marketing area: Channahon, Jackson, Manhattan, Green Garden, Monee, Crete, Wilmington, Florence, Milton, Peotone, Will, Washington, Reed, Custer, and Wesley, all in Will County, Illinois. These townships, which have been a part of the marketing area covered by the Suburban Chicago order, are mostly rural in character and the quantities of milk distributed there by handlers to be regulated are not substantial. Except for such townships the merger necessitates the inclusion of the present Suburban Chicago marketing area in the expanded Chicago marketing area.

To accomplish the merger effectively and in an equitable manner it is determined also that the monies on hand as the result of the administrative assessment provisions (§ 941.9 and § 969.9) of Orders 41 and 69 should be combined to be included in the administrative fund to be established under § 941.86 of the consolidated order. Similarly, the monies on hand as the result of the marketing services provisions of such two orders should be included in the marketing services fund established under § 941.87 of the consolidated order.

An additional proposal of the Rockford handlers for the merger of Order 91 (Rockford-Freeport, Illinois, marketing area) with Order 41 also was covered by the notice of hearing. Proponents, however, abandoned the proposal and no testimony was offered in its support. This proposal is denied.

A suggestion was made at the hearing that a market-wide pool might be adopted under the Suburban Chicago marketing area in lieu of the consolidation of Order 69 with Order 41. It is concluded, however, that the price difficulties referred to cannot be resolved satisfactorily merely by the adoption of a market-wide pool under Order 69.

(2) The expanded Chicago, Illinois, marketing area should include certain additional townships not previously under regulation.

It was proposed by the proponents of the consolidated order that certain additional townships, namely Waukegan, Shields, West Deerfield, Deerfield, Zion, Newport, Warren, Libertyville, and Vernon, be included in the marketing area. The principal community located in this area is the city of Waukegan, Illinois. Such townships have not been under an order previously.

It is apparent from the record that supply and marketing conditions in this general area are not appreciably different from those found to exist to the south which make it desirable to consolidate Orders 41 and 69. There is a highly competitive situation between Waukegan and Chicago handlers in the procurement of milk. Farms of producers supplying the added townships are intermingled with those of Chicago producers. The proponent association sells substantial quantities of Chicago-approved milk to handlers in this area who

compete with Chicago handlers for sales there. In distributing returns to producers in the Waukegan area it has been necessary for the association to include in its "Waukegan pool", for member producers, milk of certain Order No. 41 plants in order to achieve greater uniformity in producer prices in the supply area adjacent to the Waukegan market and to prevent unnecessary shifting of producers between the Waukegan and Chicago markets. Grade A ordinances have been adopted by the principal communities in such townships. Inclusion of such area would not increase costs to local handlers substantially since it has been the practice of the association to sell them milk on the basis of the Chicago price level.

Extension of the area would provide greater price uniformity between the newly added communities and the Chicago market and should create more orderly marketing conditions for producer milk. Only the first four of the above-named townships are included in the defined marketing area since the remaining five are substantially rural in character and there is no competitive element in the latter group of townships not covered by the order.

(3) Location adjustments applicable to milk originating within the 55-mile zone from the City Hall in Chicago should be provided; location adjustment rates in effect beyond the 70-mile zone should not be revised.

Prices under the Chicago order begin at a point 70 miles from the City Hall in Chicago. Suburban order prices begin at the plant or receiving station from which milk is distributed in the marketing area. With two exceptions (plants located more than 70 miles from Chicago) such prices under the Suburban order have applied to milk received at distributing plants located within the defined marketing area. Within the 70-mile zone from Chicago there are a number of receiving stations serving distributing plants under the Chicago order most of which are located beyond 55 miles from the City Hall in Chicago. Because of differences in local marketing and hauling problems involved in supplying the widespread area to be covered, it is deemed preferable, in combining the orders, to establish class and uniform prices at the 55–70 mile zone rather than f. o. b. plants in the marketing area, with location adjustments to apply with respect to milk received at plants either nearer or farther away from the marketing area. Such adjustments are already in effect in the Chicago order for more distant zones.

It was proposed by the proponents of the merger that handlers be required to pay, in addition to the class prices, 4 cents per hundredweight of milk received from producers at plants located within the marketing area and 2 cents per hundredweight with respect to any such receipts at plants located outside the marketing area but not more than 55 miles from the City Hall in Chicago.

Location adjustments with respect to milk received from farms at plants located nearer to or within the marketing area are necessary to provide an appropriate graduation of prices from the 55–70 mile zone to points within the marketing area. It appears that the near-in supplies historically have commanded premiums over the more distant milk by more than the actual difference in transportation cost from the two general locations on the principal grounds that such supplies are better adjusted to the requirements of the fluid milk market, are more readily accessible, are less subject to weather and transportation hazards, and do not require country station handling.

Under the provisions of the Chicago order the present location adjustment rate with respect to milk moved into the marketing area from plants beyond 70 miles from the City Hall in Chicago is 2 cents per hundredweight per 15-mile zone. Since the class prices are fixed at the 70-mile line milk moved from points beyond the 70-mile line to points closer to the Chicago City Hall is transported at the handler's expense from the 70-mile line to the closer-in point. Actual prices received by producers under the two orders who deliver to plants within 55 miles of Chicago (including plants located in the proposed marketing area) have been higher on the average than prices announced for the 70-mile zone under the Chicago order by more than the proposed maximum location adjustment rate of 4 cents per hundredweight for this segment of the milkshed. These differences have been accounted for by price premiums and hauling subsidies paid by handlers to the producers amounting to about 17 cents per hundredweight of milk received at plants inside the expanded marketing area and approximately 3.5 cents per hundredweight of milk received at plants outside the expanded marketing area but not more than 55 miles from the City Hall in Chicago. Such premiums and subsidies have been paid by individual handlers as a supplement to minimum uniform prices required to be paid under the two orders and without regard to the particular uses of such milk. Substantial payments of this kind have been made over and above order minimum prices in this general area for many years but such payments have varied to some extent because of differences in marketing problems in various segments of the zone. The proposed rates to be paid by handlers at plants within the 55-mile zone in addition to 55–70 mile zone prices appear reasonable and are well within the pattern of rates already employed in the Chicago order. Proponents suggest a tolerance over and above the proposed differential rates to be left to the bargaining process because of such local marketing problems.

Adjustments in the uniform prices to be received by producers delivering to plants closer than 55 miles also are necessary to reflect their location advantage. Proponents suggested a 10-cent differential above the 55–70 mile zone uniform price for milk delivered to plants within the marketing area and a 2-cent differential over such price for milk delivered to plants between the 55–70 mile zone and the marketing area. Of the 10-cent differential to be required 6 cents would become a charge against the pool and the remaining 4 cents would represent the 4 cents paid by handlers at plants in the marketing area.

For several years minimum uniform prices received by Order 69 producers generally have been higher in the area within 70 miles of Chicago than the minimum prices to Chicago producers although there has been a wide variation among the uniform prices of individual handlers (individual-handler pools) regulated under Order 69. Attempts of the producers' association to operate pools within the association by groups of plants in various segments of the 70-mile zone have not eliminated the marked price variations since there are independent producers receiving different prices than member producers and Order 41 producers receiving different prices than Order 69 producers. Market-wide pooling under Orders 69 would reduce the number of price variations to be contended with but would not eliminate the differences existing between the minimum uniform prices in the two orders which, on a market-wide basis, has averaged 17 cents per hundredweight. Such premium is being received at present by suburban order producers who provide 39 percent of the milk shipped directly to plants in the consolidated marketing area. This is equivalent to 6 cents per hundredweight on the total volume so shipped under both orders.

In view of historical considerations which show an intensive competition among such plants for supplies which have resulted in premium prices to producers supplying marketing area plants as compared with prices received by producers at more distant plants, proponents contend that the proportion (10 cents per hundredweight) of such premiums to be included under the minimum price provisions be reserved for the producers supplying the inside plants and not be shared with all producers by distribution through the uniform price. Under the proposal made Order 69 producers would receive a 6-cent lower price as a result of their inclusion in the pool. The amount represented by this difference would inure to the benefit of neighboring producers at present under Order 41 to bring about uniformity of pricing to all producers within the close-in production area. Minimum uniform prices to producers in zones from 70 miles and beyond would not be changed in relation to the minimum uniform price for the 55–70 mile zone.

Limitation of the 10-cent location adjustment to milk received at plants located in the marketing area was questioned in the record by Chicago handlers. A counter proposal was made that such rate should apply to milk received at any plant located within 55 miles of the City Hall in Chicago. The record discloses, however, that producers delivering to plants within the marketing area have longer hauls. Also, to extend this premium to receiving station milk would tend to encourage additional but unnecessary receiving station facilities at close-in locations at some expense to producers.

The 2-cent rate would be applicable to plants closer than 55 miles but outside the marketing area. Plants in this area

are receiving stations established to serve bottling plants located inside the marketing area. The rate proposed would extend the rate in effect for zones beyond 70 miles to an area one zone closer. It is not practical to extend such rate to additional 15-mile zones less than 55 miles since the marketing area extends nearly such distance from the City Hall in Chicago in certain directions.

A proposal was made to increase the zone rate to 3 cents per hundredweight in zones beyond 70 miles from Chicago. It is concluded that such proposal should not be adopted since it was not supported by testimony on which a sufficient appraisal of its property can be made.

Producers in the 18th to 22d zones suggested the placing of a "floor" under the uniform price for such zones. This was discussed principally in connection with the proposals to increase the zone location adjustment rate to 3 cents per hundredweight in such zones and to provide a supply-demand adjustment with respect to the Class I and Class II prices differentials. It is stated above that the 3-cent location adjustment rate is denied. The supply-demand adjustment included in connection with the class price differentials does not operate to reduce such differentials below their lowest seasonal level (50 cents and 30 cents, respectively) as now in effect under the present Chicago order. The record does not provide sufficient basis for altering the application of the present 2-cent location adjustment rate to all zones beyond 70 miles from Chicago.

(4) A "pool plant" definition should be adopted which will cover, for pricing purposes, the milk received from producers at plants that (a) bottle milk, all or a part of which is disposed of in the marketing area as Class I milk (§ 941.41 (a) (1)), (b) are approved by the Chicago Board of Health for the receiving of milk which may be disposed of as Class I milk or Class II milk in the marketing area, or (c) ship a specified minimum percentage of milk or cream in fluid form to bottling plants supplying the marketing area but not under Chicago inspection.

One of the proposals involved a definition of a pool plant. In part this was offered in lieu of the "approved plant" definition now contained in Order No. 41, and that part of the "handler" definition now contained in Order 69 which specifies the plants covered by that order. The proposed pool plant definition, however, was expanded in such manner as to include under the combined order, plants not previously covered by either order but which ship to bottling plants serving the suburban portion of the marketing area at least 50 percent of the milk received from producers during each of the months of October and November.

Order 41 at present includes in the market-wide pool any plant approved by the applicable health authority for the receiving of milk which may be disposed of as Class I milk in the marketing area. Some of these plants are engaged in bottling Class I milk, part or all of which is disposed of in the marketing area while others are country plants which are included in the pool whether or not they ship milk or cream to the marketing area. All such country plants are approved by the Chicago Board of Health. Under Order 69, only milk received from dairy farmers at a plant which bottles Class I milk, part or all of which is disposed of in the marketing area, is priced as producer milk. Milk or cream received in bulk at such a bottling plant from another plant which is not under Order 69 or 41 is deducted from the handler's total utilization and is not priced even though the supplying plant may be operated primarily for the purpose of shipping milk and cream to the suburban Chicago marketing area.

Milk received from producers at bottling plants should be included in the pool at all times inasmuch as such plants obviously are serving the market regularly. On the other hand, in connection with the proposed consolidation of orders, and for other reasons as set forth below, there is need to establish certain requirements for pool participation with respect to plants which supply bottling plants with milk or cream.

During the last few years the sale of Chicago inspected milk to distant markets during the short production season has presented a supply problem. This milk which has been shipped to plants outside of the surplus milk manufacturing area has been of considerable volume and at times the supply available for the Chicago market has been jeopardized because of these outside shipments. The situation became acute during the fall of 1947 as a result of which an emergency hearing was held for the purpose of finding a solution to alleviate a shortage of supply due in substantial measure to the outside sales. The period of lowest milk production usually begins in early fall and continues throughout the fall months with the upturn coming in December. It is during these months that handlers in the Chicago marketing area at times have experienced difficulty and additional expense in filling their requirements for Class I and Class II milk. Some plants apparently ship to outside markets even though the milk is needed for the Chicago marketing area. However, under the present terms of the order they are permitted to remain in the Chicago pool and to obtain the benefits therefrom during the flush production periods when their milk is not needed in distant markets or in the Chicago market. Part of the spring surplus volume results from supplies developed to cover fall requirements which include these outside sales. If production for the Chicago market is lower during the coming fall months (and there was considerable evidence in the record indicating that a short supply situation may be expected), as compared with the same period in 1950 supplies of milk available for the marketing area may fall below adequate levels, especially if the outside sales continue at the high rate for the fall months in recent years. All parties testifying at the hearing were in agreement that milk produced under Chicago inspection should be made available for disposition in the Chicago market when needed.

Solution to the problem was suggested at the hearing through two proposals, one of which would increase the price applicable to the outside milk. Such proposal is discussed elsewhere in this decision. The other sought to provide pool plant provisions with suspension aspects which, it was contended, would serve to make milk produced for the Chicago market first available for that market when needed.

Considerable opposition developed to the particular plan presented at the hearing. A major objection was that it provided for too much discretion on the part of the market administrator in fulfilling the various duties placed upon him and that proper standards were not set forth to guide him in the actions which he would be expected to take. Further opposition developed on the grounds that the plan proposed had not been included in the notice of the hearing and therefore could not appropriately be considered. With respect to the latter contention, it would appear that the pool plant requirements proposed merely expanded upon the pool plant definition set forth in the hearing notice (§ 941.5) and provided mainly for the suspension of plants from the pool under certain circumstances. The proposed requirements related closely to such definition and to price problems considered at length under the various price proposals. It is concluded that such proposed requirements were within the scope of the notice of the hearing.

There appears to be merit in pool plant provisions which will assist in channeling milk produced for the Chicago market to that market in the months when production is lowest. Certain provisions to accomplish this purpose have been included in the attached order. The requirements adapted should not be difficult of compliance and will avoid the proposed discretionary powers of the market administrator which were found to be objectionable by various parties. The plan employed would designate as a pool plant, in addition to bottling or distributing plants, each country receiving station which has Chicago Board of Health approval. To maintain such status, however, such a country plant must either ship during each of the months of September, October and November as milk or cream in fluid form not less than 50 percent of its producer butterfat receipts to bottling or distributing plants serving the marketing area or, in lieu thereof, offer to ship said amounts to the latter plants at announced prices and terms to be filed with the market administrator who would make information concerning such prices and terms available to all handlers. Under the above shipment requirement, however, a country plant would be given credit (as a shipment) for any disposition therefrom of Class I milk for Class II milk to outlets within the surplus milk manufacturing area other than regulated plants. Failure to ship or to offer to ship at announced prices and terms would result in automatic suspension from the pool for the delivery periods from February to July, inclusive, of the following year.

Although it is not probable that this plan will in itself settle completely the problem raised by the large volume of

outside sales in the fall months, it should serve as a starting point from which additional experience can be gained. It is recognized that a Chicago approved plant may be able to avoid its responsibility to serve the Chicago market under the requirements outlined. However, it is believed that impact of public opinion resulting from publication of the conditions of shipment to Chicago bottling or distributing plants will serve as a strong deterrent for any country plant to evade such responsibility.

Plants not previously covered by either Order 41 or 69 which service only that portion of the marketing area outside the present Chicago marketing area but in a substantial degree during the short supply season also should be permitted to participate in the pool throughout the year. This requires the inclusion of a separate provision. It is provided that any such plant which ships as milk or cream in fluid form to bottling or distributing plants serving the marketing area at least 50 percent of the butterfat received from its dairy farmers during any delivery period will be in the pool for that delivery period. However, the plant may remain in the pool through August by the delivery of such percentage of receipts in each of the months of September, October and November immediately preceding. The provision adopted differs slightly from the original proposal covering such plants in that shipment of the required percentage of its dairy farm supply must be made in three of the low production months and that an election may be made by the plant to withdraw from the pool if it so desires. The basis for granting pool plant status to these plants necessarily must differ from that on which Chicago approved plants are given such status. With the exception of one plant located within the marketing area, it is not known from past experience what plants may expect to gain status under the requirements. Also, it would not be appropriate to include as a pool plant a plant serving the market only on a temporary basis, or as an emergency supply source, when it is not the intention of the plant to identify itself as a regular source of supply for the marketing area. To avoid inclusion of plants of the latter type the requirement is made that the plant must actually supply milk or cream in fluid form. This is in contrast to the requirements placed on Chicago approved country plants which may either supply or be able and willing to supply at least 50 percent of the butterfat (as milk or cream) received from dairy farmers. In the case of Chicago approved country plants, identity with the market has been established in the past through Chicago Board of Health approval. Such plants already are included in the market pool under the Chicago order and the evidence indicates that most of such plants have the Chicago market as their primary outlet. In view of their close identity with the Chicago market in the past it would appear appropriate to give immediate pool status to such plants and to continue such status on indication of their ability and willingness to ship the quantities required of new plants entering the market, as well as on actual shipments while requiring actual shipment by other plants.

(5) The price differentials added to the basic formula price for Class I and Class II milk should be revised to provide for (i) an increase in the differentials for July, (ii) the adoption of a supply-demand adjustment, (iii) an increase in the differentials for Class I milk and Class II milk, disposed of outside the surplus milk manufacturing area during the delivery periods of August, September, October, and November, and (iv) pricing Grade B milk classified as Class I milk and Class II milk at a lower level than Grade A milk.

Several proposals affecting the differentials for Class I and Class II milk were offered. One of these provided that no change should be made in April, May, and June differentials but that the Class I price differentials for August, September, October, and November should be increased $0.40 per hundredweight of milk and the Class II price differentials increased $0.20. The Class I price differentials for December, January, February, March and July would be increased $0.20 per hundredweight and the Class II price differentials would be increased $0.10. Another proposal made in connection with a base and excess plan provided that the Class I price differential should be $1.10 per hundredweight and the Class II price differential should be $0.60 per hundredweight throughout the year. The proponents of the latter proposal submitted an alternative to be considered in the event the base-excess plan was not adopted, to the effect that the Class I and Class II price differentials, respectively, should be $0.90, and $0.50 per hundredweight during January through April; $0.75 and $0.40 during May and June; and $1.50 and $0.70 during July through December. A third proposal offered would set the Class I differential at $0.60 per hundredweight during May and June; $1.10 during August through November; and $0.90 during all other months. The Class II price differentials would be $0.40 per hundredweight during May and June; $0.70 during August through November; and $0.60 during all other months.

A "flexible premium" proposal also was presented. This would employ the present seasonal Class I and Class II price differentials as a base and would increase or decrease such differentials in relationship to changes between the supply of and demand for milk for Class I and Class II uses during comparable specified seasons of the previous year. If this proposal were currently in effect, it would increase the 1951 Class I price differentials during August, September, October and November by $0.30 and decrease the differentials during all other months this year in amounts ranging from 11 to 12.3¢ per hundredweight.

In addition to the evidence in support of proposals to change the level of Class I and Class II price differentials, there was also testimony supporting the position that there should be no change in the differentials at this time.

In connection with the problem of the highly seasonal demand by distant markets for bulk milk and cream, a proposal was introduced to increase the differentials during August, September, October, and November on Class I and Class II milk disposed of to plants outside the surplus milk manufacturing area by about $0.75 per hundredweight over and above the prices in effect for the marketing area.

The proponents of the consolidation of Orders 41 and 69 took cognizance of the fact that Grade B producer milk, classified as Class I or Class II milk, has been priced separately under Order 69 at a level $0.10 per hundredweight below the Grade A prices. They proposed that under the consolidated order, Class I and Class II milk prices for these two grades of milk continue to maintain this relationship. A handler currently under Order 69 proposed that the class prices for Grade B milk be lowered in relation to the Grade prices to result in a Grade B uniform price at least $0.25 per hundredweight under the Grade A uniform price.

The Chicago market obtains milk from one of the largest and most concentrated milk producing areas in the United States. During the first nine months of 1950 over 62 percent of the milk priced under Order 41 was received at plants located in Wisconsin where the production of manufactured dairy products is carried on in substantial volume. All segments of the Chicago fluid milk industry have long recognized that the level of milk prices paid producers who furnish milk to the Chicago metropolitan area must be closely related to the prices received by dairy farmers, shipping milk to manufacturing plants. Since the inception of Order 41 in September 1939 the Class I and Class II price differentials have been related directly to prices for milk used for manufacturing purposes. Although there continues to be a unanimity of opinion in the Chicago milk industry as to the desirability of relating Chicago milk prices to manufactured milk prices, there was considerable disagreement at the hearing as to whether or not the existing levels of Class I and Class II differentials are high enough to attract an adequate supply of approved milk to the Chicago market.

Under the present pricing provisions of both Orders 41 and 69 the Class I price differentials (for Grade A milk) per hundredweight of milk are $0.50 during May and June; $0.90 during August, September, October and November; and $0.70 during all other months. The Class II price differentials per hundredweight of milk are $0.30 during May and June; $0.50 during August, September, October, and November and $0.40 during all other months. These Class I and Class II price differentials have been in effect since September 1, 1947, at which time the average level of differentials were increased by about 7 to 10 cents the levels existing immediately prior to that date and the seasonal differences in the Class I price differentials were widened as much as $0.20. During the three full years that these differentials have been in effect, the Order 41 uniform prices per hundredweight of 3.5 percent milk received at plants in the 70-mile zone have averaged $0.63 higher than the con-

densary-pay price for 1948; $0.69 for 1949; and $0.51 for 1950.

From 1947 through 1950 there has been a rather substantial increase in the amount of milk received at plants under Order 41. The average monthly receipts during 1947 were 236.6 million pounds and in 1950 were 292.3 million pounds, an increase of almost 25 percent. This increase has been due to both an increase in the number of producers and an increase in production per herd. The number of producers on the market has increased since about the middle of 1946, when there were approximately 17,000 producers. For September 1950 the latest period for which data were available at the time of the hearing, there were over 21,300 producers. In contrast with the increased supply of milk on the market, the demand for Class I and Class II milk (excluding shipments to distant markets) under Order 41 has been relatively steady during the most recent 3½ year period. What increase there has been in the demand for Class I milk has been offset largely by a decrease in the demand for Class II milk.

Producer representatives acknowledge this change in the over-all relationship between the supply of and demand for milk. However, they emphasized that production started decreasing during the latter part of 1950 and they forecast a further decrease during the coming months, as compared with last year's level. They pointed to the fact that the price of milk has been relatively low in relation to certain other agricultural commodities such as beef animals and hogs, which are competitive with milk in part of the Chicago milkshed. They indicated that the prices of things farmers buy, such as feeds and machinery, have been increasing rather sharply. Attention was called to the tightening labor market resulting from high industrial activity in nearby cities, the high wage rates in industry, and the need for manpower by the armed services. It was contended that numerous dairy farmers in the Chicago market are disbursing their herds as a result of these factors.

The relationship between prices for milk as compared with other agricultural commodities, the current prices of things that farmers buy, and the short supply of farm labor, are not problems confined to the Chicago market or to any other fluid milk market alone, but rather are problems confronting the dairy industry as a whole. They indicate the propriety of a readjustment in the general level of dairy prices. In the past few months such a readjustment has been taking place. It was pointed out at the hearing that the prices paid by condenseries and certain other manufacturing milk plants had advanced materially in recent weeks. Official notice is taken of the recently announced increase in support prices for dairy products designed to encourage additional milk production nationally. These increases had not been reflected to any large extent in the prices that the producers serving the Chicago metropolitan area had received up to the time of the hearing. However, the effects have been felt since that time. To the extent that subsequent changes occur in the prevailing prices of manufactured dairy products, they will of course be reflected in the prices that producers supplying Chicago will receive for their milk because of the basic formula price provisions.

The seasonality of the supply-demand relationship is a factor that also must be considered in determining the appropriate level of the Class I and Class II price differentials. During the period Order 41 has been in effect, the production of milk consistently has varied more than the consumption of Class I and Class II milk products in the Chicago marketing area. An adequate supply of milk during the low production months of August, September, October and November has generally been accompanied by a substantial seasonal surplus of milk during the other months of the year. In this connection it may be noted that the relationship between the supply and demand for milk in the Chicago area in the season of low production has been aggravated by the fact that a number of fluid milk markets located a considerable distance from Chicago have purchased fluid milk and cream from handlers under Order 41 to supplement local sources of supply. These purchases are heavily concentrated in the fall months of production, with sales in the spring months being nearly negligible as a percentage of total market sales. Furthermore, the quantities of milk disposed of to distant markets during the fall months vary greatly in volume from year to year.

Order 41 provides seasonal variations in Class I and Class II price differentials to encourage producers to change their pattern of production to conform more closely with the pattern of demand. The seasonal variation in the Class II price differentials also is designed to encourage handlers to store frozen cream during the flush season for use in ice cream during the short production season to assist in easing the fall demands on current milk production. A difference of opinion exists among representatives of the industry as to whether or not the seasonal Class I and Class II price differentials employed in the past have significantly affected the seasonal pattern of production. Some producer representatives contended that data for recent years indicate that production is becoming more uniform throughout the year. Each proposal, except the proposal made in connection with the base-excess plan, would widen the difference in prices between the season of peak production and the season of low production. Other producer representatives contend that seasonal differentials have not worked satisfactorily and that a base and excess plan should be adopted (a discussion of this proposed plan is contained elsewhere in this decision).

From an examination of the record, it appears that the prices received by Chicago area producers since the fall of 1947 have been sufficiently above those received by farmers shipping milk to manufacturing plants to attract and maintain an adequate supply of milk for the Chicago metropolitan area. This does not mean, of course, that the prevailing Class I and Class II price differentials necessarily will be sufficient to produce this result in the future. The change in the trend in production during the latter part of 1950 and the concern of producers over the possibility that an adequate supply of milk will not be available during the fall of 1951 unless the Class I and Class II differentials are increased, points to the need for a method of adjusting these differentials promptly in the event the relationship between supply and demand indicates that supplies may not be adequate.

A reliable indicator of the relationship between supply and demand is the experience of recent months. After examing a number of flexible premium differential plans, it has been concluded that one based upon experience during the most recent 6-months for which data are available would be the most satisfactory for adoption in the Chicago market at this time. Such a period of time would reflect trends in the supply-demand relationship; a shorter period would at times give undue weight to short-time factors, such as abnormal weather conditions, whereas a longer period of time would result in a considerable lag in price changes following the appearance of a change in the trend of the relationship between supply and demand. The plan provides that the market administrator shall determine, during the latter part of each month, the relationship between receipts of milk from producers and the actual utilization of milk in Class I and Class II products during the most recent 6-months period. Sales of Class I and Class II milk outside the surplus milk manufacturing area would be excluded in this computation since they do not reflect the demands of the marketing area and are highly seasonal and irregular. The problems created by those sales are being dealt with separately. The quantity of milk contained in frozen cream or plastic cream moving into storage also would be excluded from the computation inasmuch as any milk used in the production of ice cream or other Class I or Class II products would be reflected in the utilization data at that time.

The percentage obtained by dividing the receipts of milk during the most recent 6-months period into the Class I and Class II utilization will be compared with a percentage specified in the order for a comparable 6-months period for previous years. There are 12 of these "base percentages" which have been obtained by computing a moving average relationship between the supply of milk and the utilization for Class I and Class II milk products beginning with August 1949–January 1950 and ending with July 1950–December 1950. Data for both the Order 41 and Order 69 marketing areas have been included in these computations. During 1949 and 1950 the combined supply of milk under both orders was reasonably adjusted to the combined demand for Class I and Class II milk products. Based upon experience during 1947 and 1948 the general level of production during the 1949 and 1950 period could have decreased somewhat before the market would have been extremely

short of milk. On the other hand, if additional supplies of substantial volume had been available during 1949 and 1950, they would have indicated an oversupply and would have been somewhat burdensome to the market.

It is provided that for each percentage point that the "current supply and demand ratio" is above or below the base percentage, the following adjustments shall be made to the Class I and Class II price differentials for the applicable months: May and June, $0.02; July, August, September, October and November, $0.04; all other months $0.03. Such adjustments, however, are limited in their effect to a 30 cents per hundredweight increase or decrease and will not result in differentials of less than 50 cents for Class I milk and 30 cents for Class II milk at any time. In view of market experience lesser differentials would not be practicable in the foreseeable future. In addition, it is concluded that any change in price greater than 30 cents under the formula adjustment should result from review of the circumstances in hearing.

The experience of the past few years indicates gradual adjustments in the relationship between supply and demand. Assuming that the downward trend in production continues, this plan would result in higher Class I and Class II differentials during the middle and latter part of 1951. The seasonal variations in the amounts to be added to or subtracted from the Class I and Class II price differentials under the plan are designed to conform generally with the seasonal relationships existing in the present class price differentials. Under this plan the adjustments to the differentials can vary from one month to another. This should not result in difficulty, however, since monthly fluctuations in the Class I and Class II prices have been customary in the market. The basic formula price changed 46 times during the 48 months from January 1947 through December 1950; 26 of the changes were less than $0.10; 11 were between $0.10 and $0.20; and 9 were greater than $0.20. These changes resulted in corresponding changes in Class I and Class II prices. In view of this experience, it does not appear that any changes in the differential to result from the supply and demand adjustment should complicate the problems which confront handlers in establishing retail prices in relationship to order prices.

The present Class I and Class II price differentials for July are $0.20 and $0.10, respectively, lower than those for August through November. Milk production in the Chicago market reaches a maximum level for the year during May and June and decreases rather sharply during July and August. Production normally has reached a relatively low point during September and has remained at a low level during October and November. By December production is on the increase. The July Class I and Class II differentials therefore are being increased in line with those during August through November as an additional inducement to producers to follow the breeding and feeding practices necessary to accomplish relatively greater production in the season of low production.

The problem created by the seasonality and irregularity of sales to distant markets have been discussed at most of the recent hearings held in connection with Order 41. Although numerous proposals have been suggested as solutions to these problems Order 41 at present does not contain provisions specifically designed to alleviate them. Two proposals were presented in this connection. One of these provides that to be included in the Chicago pool a plant should be required to supply the needs of the Chicago market before shipments to distant markets might be made. Certain features of this proposal are being incorporated in the pool plant provisions adopted. The second proposal advocates that the Class I and Class II price differentials on milk disposed of outside the surplus milk manufacturing area be increased sufficiently to compensate producers for carrying the extra volume of surplus which occurs during the spring months if the supply of milk is to be adequate to fulfill the needs of the outside markets during the fall months. Based upon experience during 1950, proponents of the second proposal calculated that an additional $0.72 per hundredweight of Class I and II milk would have to be charged during the months of August, September, October and November to properly compensate producers for carrying such volume of surplus milk.

The evidence indicates that Chicago handlers have been at a disadvantage from a price standpoint in competing with distant markets for the available supply of Chicago approved milk, due in large measure to the premiums paid by purchasers in the distant areas. Such buyers, on the other hand, have been in a position to avoid responsibility for the seasonal surpluses associated with their short season purchases from Chicago plants. The price structure under the order should be designed to provide a sufficient supply of pure and wholesome milk for the marketing area. A shortage of milk for the marketing area appears likely if sales to distant markets are not retarded.

Although the figure suggested by producers necessarily would vary somewhat from year to year, it is concluded that $0.70 per hundredweight of milk disposed of as Class I milk or Class II milk to markets outside the surplus milk manufacturing area during the four months referred to is a reasonable amount above the price level for the marketing area to obtain for the pool an appropriate value for the milk utilized to cover such distant sales and to remove a competitive disadvantage to Chicago handlers in procuring adequate supplies to meet the needs of the marketing area.

At the present time some Grade B milk is being disposed of under Order 69 and is priced separately from Grade A milk. Under the consolidation of Orders 41 and 69 this milk would be included in a separate pool. Some provision, therefore, must be made for pricing such milk. Order 69 provides that the Class I and Class II prices for Grade B milk shall be $0.10 lower than the corresponding prices for Grade A milk.

One objection to the continuation of this price difference was raised on the grounds that the resulting Grade B uniform price may not be sufficiently lower than the Grade A uniform price to induce producers to meet Grade A requirements in the future.

When Order 69 became effective in September 1944, less than 25 percent of the producers shipped Grade A milk. Seven years later, over 85 percent of the producers were delivering Grade A milk. The above price differential was in effect during all this period. It is concluded that under the combined order the existing relationship between Grade A and grade B Class I and Class II price differentials should be continued.

(6) The formula for pricing Class IV milk should be revised to employ prices of spray process nonfat dry milk solids in lieu of the average of prices of such solids by spray and roller process, but an automatic adjustment in the operating allowance in such formula based on a "labor-coal" index should not be provided.

Class IV milk under the Chicago (also the Suburban Chicago) order is priced by means of a formula based upon the yields and market prices of butter and nonfat dry milk solids with an operating allowance of 67 cents per hundredweight of milk used in such class. Class IV milk is principally milk utilized for butter and cheese manufacture.

Certain producer organizations proposed that the present formula be revised to provide for the automatic revision of the operating allowance as the price of coal and the wages of dairy plant labor change. Changes in the costs of labor and coal in the production of butter and nonfat dry milk solids would be reflected in the formula through the monthly application of certain index numbers to the designated manufacturing allowance. In support of the inclusion of a "labor-coal" index it was stated that there is a close relationship between the total cost of manufacturing butter and nonfat dry milk solids and creamery labor and fuel costs. Certain statistical exhibits were offered to support this contention. It was contended also that the varying "spread" between the effective prices for spray and roller process nonfat dry milk solids and their average should be taken into account in the formula by the inclusion of a further adjustment to the manufacturing allowance (the formula at present employs the average of spray and roller process nonfat dry milk solids prices). The latter contention was supported by reference to the discussion of such spread in the decision underlying the adoption of the formula now in effect.

It is recognized that the cost element may play an important part in the determination of individual plants to handle milk for Class IV purposes in any given period. It is likewise probable that for some plants engaged in the manufacture of butter and nonfat dry milk solids a high correlation may be shown between changes in labor-coal index numbers, such as proposed for use in the order, and changes in absolute costs for

such plants, which correlation may extend over a period of several years. However, as stated in the Secretary's decision of February 24, 1950, official notice of which is taken, in which the basis for the current Class IV formula is discussed at length, it may be expected that "in the market such as Chicago, differences will exist between handlers in the cost of manufacturing surplus milk, in the yields they will obtain, and in the prices which are received for the same products. A handler with low yields, receiving low prices for his products, and having high costs of operation will receive a considerably lower return for surplus milk than a handler with high yields, higher prices, and low manufacturing costs. If the Class II price is such that the least efficient plant can break even then the most efficient plant may be in a position to make substantial profits". As in the case of the hearing record of November 1949, on which the present formula was adopted, the record now under consideration does not show for any plant on the market the overall returns recovered from Class IV operations or provide a basis for enabling a comparison of various plants engaged in a substantial way in the handling of milk for Class IV uses.

The proponents of the "labor-coal" index as a reflector of a changing cost position do not claim, and rightly so, that such an index would reflect absolute costs for any single plant or representative group of plants engaged in the manufacture of the products referred to in the formula. To the extent that costs are an element of consideration in the adoption of a formula or its revision, however, the absolute costs at representative plants are significant. Absolute costs are affected, however, by changes in operational efficiency which may result from various factors such as changes in plant techniques, improvements in machinery, changes in the volume of milk handled, or changes in allied operations such as the production of other products or the sale of milk or cream in fluid form.

Cost data for butter and nonfat dry milk solids manufacture may not be relied upon solely as the determinant of a reasonable operating margin for Class IV milk. In this connection it should be noted that the present operating allowance of 67 cents is not based entirely upon the cost data presented in the hearing of November 1949. The level of pricing appropriate for the products included in Class IV milk was considered also in light of returns for milk at unregulated plants making butter and powder and in relation to the need for milk supplies at regulated plants in other than Class IV uses. It is significant also that substantial quantities of milk are made into cheese, a Class IV product. Such factors have only an indirect, if any, relationship to actual costs of manufacturing butter and nonfat dry milk solids in regulated plants or to changes in the cost factors under consideration.

In establishing the present formula allowance consideration was given to the fact that the support price program for nonfat dry milk solids announced December 22, 1949 provided for a 2-cent spread between the support prices for roller and spray process nonfat dry milk solids in the period January 1950 through March 1951. The previous spread provided under the program had been 1.25 cents. It was pointed out at the time that "Under these circumstances, the use of an average spray-roller powder price is open to considerable question as an accurate indication of prospective returns to handlers. Both types of powder are made by handlers of Class IV milk under the order, although the record indicates that the volume of spray process powder may be larger than that of roller process powder. It is concluded that the average price should continue to be used in the formula as a measure of returns, but that some adjustment of the manufacturing allowance to be included in the formula should be made to recognize the fact that handlers of a considerable volume of Class IV milk will have available to them outlets more favorable than the average price by a greater amount than has previously been the case." For this reason a decrease of two cents per hundredweight was made in arriving at the amount of the allowance.

The present record indicates an accelerated trend within the milkshed in the direction of greater spray powder production as compared with the volume of roller powder made. In order to adapt the present formula to this condition it is concluded that prices of spray process nonfat dry milk solids should be used in lieu of the average of prices of spray and roller process nonfat dry milk solids. This change requires, of course, a compensating revision of the stated operating allowance. Since the present formula has been in effect, the spread between spray and roller powder prices has averaged 1.982 cents per pound (March-December 1950 data). The spray powder price has averaged higher than the average of spray and roller prices by approximately 1 cent per pound in this period. From this it is concluded that an offsetting increase from 67 to 75.2 cents per hundredweight in the stated operating allowance would be appropriate. Inclusion of spray powder prices alone in the formula removes the necessity for a formula adjustment based on monthly changes in the spread between spray and roller powder prices.

(7) (a) Ice cream, ice cream mix and other frozen dessert mixes produced from Grade A milk as defined in the order should be Class II milk.

It was proposed that ice cream, ice cream mix and other frozen dessert mixes be included in Class II milk if disposed of within the city of Chicago, but be included in Class III milk when disposed of in that part of the marketing area outside the city limits of Chicago. It was stated by the proponents of this proposal that a Class III milk classification for ice cream and such mixes sold outside Chicago is necessary to enable ice cream manufacturers using Chicago inspected (Grade A) milk, or products derived therefrom, in the production of their ice cream to compete in the suburban area on an equal price basis with ice cream manufacturers not required to use supplies of milk or products under Chicago inspection.

Cream and other milk ingredients for disposition in the form of ice cream and frozen desserts within the city of Chicago must be derived from Chicago inspected milk. Ice cream for disposition outside the city of Chicago but in communities within the defined marketing area under the consolidated order may be made from milk produced under less rigid health inspection requirements. Chicago ice cream manufacturers sell ice cream both in the city of Chicago and in suburban markets beyond the city limits. Chicago ice cream manufacturers compete for business in markets where ice cream makers do maintain Chicago inspection, but such outside ice cream makers may not compete for ice cream business within the city of Chicago. The Chicago ice cream maker operates with respect to the bulk of his ice cream sales on a market protected against outside competitors not handling Chicago approved ice cream.

It is concluded that ice cream, ice cream mix, and frozen desserts which are made from Grade A milk should be included in Class II milk. To classify the subject products produced from Chicago Grade A milk in Class III milk when sold outside the city limits of Chicago would return to producers for the milk therein less than an equivalent amount of milk utilized at a country manufacturing plant for evaporated milk or other Class III uses, since by use in Class III milk at the country location transportation costs to the marketing area on the volumes of milk (or cream) involved would be avoided. It would not be reasonable to permit Grade A milk which might be available for ice cream to be priced as Class III milk when it would return as much or more in manufacturing uses in the country. Prices to producers for milk meeting the Grade A standard should be designed to bring forth a sufficient supply of such milk to meet the demands for which it is required, but not to create undue surpluses of high quality milk or to provide regular supplies for milk products for which milk of different quality may be used. Similarly, ice cream made from Grade A milk under the inspection of other health authorities in the marketing area also should be classified as Class II milk.

(7) (b) Fluid skim milk which originates at a pool plant and is moved to a point outside the surplus milk manufacturing area, or to a plant where milk is priced under another Federal order or agreement issued pursuant to the act, or to an unregulated plant which is not engaged in processing butter, cheese, evaporated milk, condensed milk, whole milk powder, nonfat dry milk solids, casein, or ice cream powder, should be classified as Class I milk.

At the present time, skim milk disposed of in bulk in fluid form by handlers under Order 41 or Order 69 to plants of nonhandlers, is not classified as Class I milk unless the selling handler claims butterfat in skim milk. Under the latter circumstance, the quantity of Class I milk is determined by converting

the amount of butterfat to its 3.5 percent milk equivalent. It was proposed that any skim milk disposed of to nonhandlers who are not engaged in manufacturing dairy operations should be classified as Class I milk on a volume basis. This procedure would be comparable to that now being followed in pricing fluid skim milk disposed of by handlers to the trade in the Chicago metropolitan area.

It is reasonable to assume that nonhandlers with plants located outside the surplus milk manufacturing area or in another Federal milk marketing area would not purchase fluid skim milk from Chicago handlers and transport it to their plants unless it was being used for Class I milk purposes. Similarly a non-handler whose plant is located closer to the market but who is engaged in fluid milk operations, probably would use fluid skim milk purchased from a handler in Class I milk products. At the present time producers do not receive any compensation for such sales over what they receive when skim milk is used for manufacturing purposes except in those cases where a very negligible quantity of butterfat is claimed in skim milk. The inclusion of such skim milk sales in the Class I milk definition and accounting for the quantities on a volume basis would result in producers receiving the same compensation for this skim milk as they received from handlers serving the Chicago area.

Much of the skim milk available to handlers serving the Chicago area is utilized in manufactured milk products covered by the Class III milk definition. The plants engaged in processing skim milk into these products are located in the surplus milk manufacturing area. Such skim milk should not be classified as Class I milk and provision is made that skim milk moved to an unregulated plant which manufactures certain milk products, including condensed skim milk, nonfat dried milk solids and casein, shall not be so classified.

(7) (c) The classification provisions should be revised to specify as Class II milk any bulk condensed or evaporated milk product containing more than 12 percent butterfat disposed of outside the surplus milk manufacturing area.

At the present time Order 41 provides that any cream product in fluid form which moves outside the surplus milk manufacturing area shall be classified as Class II milk. A mixture of cream and milk or skim milk is being condensed by handlers under such order. The final product tests more than 12 percent butterfat and normally is used in the production of ice cream mix. In order to clarify the basis for the classification of such a condensed product disposed of outside the surplus milk manufacturing area in accordance with the form in which it moves, it is deemed advisable to specify at what test such product would be considered as a cream product. Whole milk is normally condensed at a ratio of three to one, i. e., three parts of whole milk results in one part of bulk condensed milk. The resulting product usually contains less than 12 percent butterfat. It is reasonable to distinguish for classification purposes between condensed or evaporated milk in Class III milk and the cream product in question on the basis of whether its butterfat test is above or below 12 percent.

The Class II milk definition should be revised to include "powdered cream" and should not be revised to exclude "powdered ice cream mix."

Some cream is being powdered in plants located in the Chicago milkshed. There is no evidence that this product is being disposed of in the Chicago marketing area, although some Chicago approved milk may be used in its manufacture. The Chicago Board of Health has not yet made a definite ruling as to whether or not powdered cream sold in the city of Chicago must be made from Chicago approved milk but there is indication that this product will be required to be made from approved milk in order to be sold in the city. Inasmuch as the use of powdered cream is closely associated with fluid cream and fluid cream products in the trade and the latter are classified as Class II milk, powdered cream should be classified similarly.

A proposal was made to remove powdered ice cream mix from the Class II milk definition. In connection with this proposal it was stated that the Chicago Board of Health does not permit the commercial use of powdered ice cream mixes within the city limits. Since it has been concluded that all ice cream made from Grade "A" milk should be Class II milk, there does not appear to be reasonable basis for classifying powdered ice cream mix made from Grade "A" milk in a different class than fluid ice cream mix made from such milk. Consequently, the request for a change in classification is denied.

The Class IV milk definition should be revised to specify the classification of milk contained in products lost or destroyed in transit.

From time to time tank loads of milk or truck loads of cream become involved in highway accidents with the result that the product is spilled or destroyed. Similarly, packaged goods are sometimes lost or destroyed when being conveyed from the handler's plant to consumers or distribution outlets. Such losses do not fall within the category of normal losses encountered in operating a dairy plant. The quantities of milk or butterfat involved are subject to verification from police reports, insurance company investigations, and other information independent of the handler's books and records. It is not uncommon for handlers incurring such losses to base insurance claims upon the class price at which the milk is classified. Such losses would not usually result in a decrease in the quantity of Class I or Class II milk since the amounts lost are replaced by milk which otherwise would be used for manufacturing purposes.

The Class I milk definition should be revised to include fluid milk, flavored milk, or flavored milk drinks which have been concentrated but not sterilized.

During recent months a product referred to as "concentrated milk" has been introduced in a number of markets. This product is made by concentrating milk at low temperatures with a high vacuum. The product is not sterilized and is disposed of to consumers for consumption in fluid form by the addition of water or it may be used in the concentrated form as a cream substitute for coffee, cereals, etc. However, there can be no question but that promoters of the product foresee it as a direct and acceptable substitute for fresh milk sold in fluid form as a beverage. Promotional advertising emphasizes that it is pure, fresh milk with nothing but water removed. Further, it is contended that when water is added, the resulting product has all of the properties of and is indistinguishable from fresh fluid milk. At the time of the public hearing in January, this product had not been introduced into the Chicago area, but it was anticipated that an early introduction might be made inasmuch as some handlers had been doing experimental work with it. One of the large producer associations suggested that the Class I milk definition should be revised to specify this product. In support of such classification, it was testified that the concentrated milk obviously is designed to replace regular bottled milk in the trade and that producers should be compensated accordingly. In view of the above it is concluded that a Class I milk classification is proper.

The record indicates that fresh milk and a chocolate flavored milk drink are being concentrated by using low temperatures with a high vacuum, packaged in hermetically sealed cans, and then frozen, on an experimental basis. There was some disagreement as to the appropriate classification of these products. The handler experimenting with the frozen products proposed that they be classified as Class II milk. It was testified, however, that Chicago approved milk would be preferred for these products. Producer representatives proposed that they be classified as Class I milk on the basis presented in support of the classification of unfrozen concentrated milk.

It would be difficult to infer from the testimony that frozen concentrated milk, flavored milk, or flavored milk drinks would be more competitive with manufactured milk products made from milk from unapproved sources than with fresh fluid milk, flavored milk and flavored milk drinks. Moreover, a Class II classification would not be sufficiently high to warrant the cost of delivery of whole milk from country locations to the marketing area for concentrating. These frozen products are in form and use highly similar to regular bottled milk, chocolate milk, and chocolate milk drinks, and it is concluded they should be included in Class I milk.

In order to arrive at the amount of Class I milk in such products on a comparable basis with fluid milk or chocolate milk, it is necessary to revise the provisions dealing with the determination of the volume of milk in such class. It is provided that the amount of milk used to produce the concentrated frozen or unfrozen products be taken as the basis for determining the quantity in Class I milk. For the purpose of computing the location differential on such milk concentrated at country locations, however, the volume after concentration should be used in order that producers' price will not be reduced by allowances

on a quantity not actually shipped. The revised Class I milk definition is not intended to change the classification of "evaporated milk" disposed of to the trade as a sterilized product in hermetically sealed cans, or "plain or sweetened condensed milk" disposed of to commercial food processors or in hermetically sealed cans. These products have been classified as Class III milk in the past and will continue to be so computed.

(8) The "base-excess" plan for making payments to producers should not be adopted.

A producers' organization proposed the inclusion of a base-excess method of payment to producers. Under the plan separate uniform prices would be computed for "base milk" and "excess milk."

A base-excess plan was employed in certain segments of the Chicago milkshed at one time by voluntary action of producers. Although the plan now proposed undoubtedly differs in its details and effect from the plan used several years ago, the record indicates that there would be strong opposition by a substantial proportion of the producers to the introduction at the present time of any base-excess plan in light of past experience. Spokesmen of producer associations representing a large majority of the producers at the hearing were opposed to adoption of the plan. Before such a plan of distributing returns to producers is adopted on a market-wide basis there should be full discussion among producers in the various parts of the milkshed. From the record there does not appear to be any substantial area of agreement among producer representatives concerning either adoption of the plan in principle or the specific provisions such a plan should contain. It does not appear that the particular plan proposed has been studied by producers generally as to its application in a milkshed as large as that of the Chicago market where marked differences in production conditions prevail between near-in and far-out sources, the zoning aspects of pricing, administrative workability, and related considerations. There is nothing in the order, however, to prevent any cooperative association from making payment to its member producers in accordance with a base and excess plan of its own design.

A representative of certain producer organizations expressing opposition to the plan presented the opinion of his group that some improvement toward more even production had been made under the seasonal plan of Class I and Class II price differentials, but that such differential plan had not had favorable opportunity to prove its effect in this respect because of the interference of war-time controls and the entrance of new producers into the market whose volume of milk has overshadowed the impact of such price differentials on the seasonability of production of the established producers.

In view of the above it is concluded that a base-excess should not be adopted as a result of this hearing.

(9) Certain changes of an administrative character should be made.

The classification provisions should be revised to limit the extent to which the market administrator must trace the utilization of milk disposed of to an unregulated plant located within the surplus milk manufacturing area.

Very few manufacturing facilities are maintained in the regulated plants of handlers under the order. Consequently surplus milk normally is disposed of to a plant where the pricing of milk is not subject to this regulation. The classification of milk disposed of to such an unregulated plant located within the surplus milk manufacturing area is presently determined on the basis of the ultimate utilization of the milk. Some milk is initially utilized in products such as condensed milk which is in the nature of an intermediary product and is ultimately used in a variety of finished products. The determination of ultimate use frequently must be made several months after the milk is received from producers since some products are stored during the flush production season and utilized later. Furthermore, it is not uncommon for such products to be distributed to a number of widely scattered users.

The present basis of determining the classification of milk disposed of to unregulated plants can result in charges to handlers which may be difficult to anticipate. A handler who has surplus milk to dispose of can determine within reasonable limits the first use of the milk. However, he frequently is not in a position to determine what use will be made of the product after it has been disposed of to subsequent processing plants. If the product is reused in another product of a higher classification, the milk is subject to reclassification and must be priced accordingly. In order to simplify the administration of the order and to give handlers assurance of a final classification of their milk within a reasonable time, the order is revised to specify that the classification of milk moving from a regulated plant to an unregulated plant located within the surplus milk marketing area shall be based upon its utilization at the first unregulated plant where the whole milk is processed into a product. After the milk moves from a regulated plant to an unregulated plant it cannot come back into Chicago to be sold for any product covered by the Chicago milk ordinance, and for most of the marketing area outside of Chicago this milk can be used only in certain manufactured products. In any case if milk moves to a handler in the market from an unregulated plant it would be under the other source milk provisions of the order.

The order should be revised to specify that in certain instances determination of the "rail distance" from the City Hall in Chicago to a regulated plant shall take into account a combination of rail and highway distances.

Since July 1940, Order 41 has provided that the zone location of plants shall be determined by the rail or highway distances, whichever is shorter, between the plant and the City Hall in Chicago. In determining rail distance, it is necessary to take into account the highway distance between the City Hall in Chicago and the appropriate city rail terminal in order to establish a common basis for ascertaining mileage to a central point in the marketing area. Also, not all country plants are located on rail lines and unless a combination of rail and highway mileage is used in determining their zone location from Chicago, some plants located equally distant from Chicago could be in different zones.

The market administrator has used a combination of highway and rail mileages in some cases in determining the location of country plants under Order No. 41. However, the highway distance from a plant to a railway loading point has been limited to short distances. Where alternative rail lines are available for shipping milk or cream to the market, the shorter rail distance has been used in the mileage determination. It has been found that, as a matter of practice, a combination of rail lines is not used for the shipment of milk or cream since the cost of this method of transportation is exorbitant. The order is revised to specify that under certain conditions highway mileage shall be taken into account in determining the rail mileage between a plant and the City Hall in Chicago. Distances up to 25 miles by highway for this purpose appear reasonable.

From time to time the distance between a plant and the City Hall may be changed due to revisions in the highway system or railway lines. The zone location of a plant should be subject to redetermination at all times, either on the market administrator's own initiative or upon the request of a handler. It would be unreasonable, however, to make such a change effective retroactively. The order should specify therefore that a retroactive determination shall not be made.

The producer definition should provide for the diversion of milk directly from the farm where produced to an unregulated plant during certain months of the year.

At the present time the producer definition under Order 41 permits milk to be diverted from the farm to unregulated plants at any time of the year. One proposal made would eliminate this feature of the definition. It was stated that in the past such provisions had been abused to some extent. A counter proposal was offered to maintain the diversion feature in the producer definition under the combined order. It was contended in support of the latter proposal that during the flush season of production it is more economical to transfer milk directly from the farm to unregulated plants. It was contended that during the short supply season occasional emergencies have arisen when it has been impossible to deliver the milk to a pool plant whereas delivery could be made to an unregulated plant.

In the past producers have been assigned to pool plants which did not receive the milk; rather the milk has been diverted regularly to unregulated plants. Such producers received the uniform price even though this milk at no time was used for Class I or Class II purposes. It is reasonable under present circumstances to require that milk be received at a pool plant during the

months when it is most likely to be needed for Class I and Class II purposes. The producer definition should provide that diversion of milk from the farm to unregulated plants may be practiced only during the months of January through July. During the remaining five months of the year, a dairy farmer should be considered as a producer only on those days on which his milk is received at a pool plant.

The order should provide for a definition of "other source milk" and the manner in which such receipts would be deducted from the handler's total utilization of milk and milk products.

Order 41 and Order 69 both contain provisions for deducting from a handler's total utilization of milk the receipts of milk or milk products from sources other than producers or other handlers. Although Order 41 does not contain a definition of other source milk as such, it has a provision which requires that any receipts of such other source milk shall be deducted in series beginning with the lowest-priced milk. In the event the receipts are used for purposes which violate any regulations issued by the various health authorities in the marketing area, the handler is required to pay the difference between the value of such milk in accordance with its allocation and the value of such milk at the lowest announced price per hundredweight of milk applicable for the delivery period. In other words, there is a "compensatory payment" to producers through the market pool if a handler receives other source milk and uses it in violation of the applicable health requirements.

Order 69 contains two definitions entitled "other source milk" and "emergency milk" which cover the receipts of milk from sources other than producers, other handlers, and handlers under any marketing agreement or order issued pursuant to the act for any fluid milk marketing area. The difference between these two definitions relate to the delivery periods covered and the basis of allocation; the emergency milk definition applies to the delivery periods of September through January and the other source milk definition applies to all other periods. Emergency milk is deducted from a handler's utilization on a pro rata basis whereas other source milk is deducted from a handler's utilization in series beginning with Class IV milk. Under Order 69 there is no compensatory payment to producers for either emergency milk or other source milk.

Proponents of the merger of Orders 41 and 69 proposed that the essential features of both orders pertaining to receipts of milk from sources other than producers or other handlers be incorporated in the resulting regulation. They proposed that the order contain a definition of emergency milk as well as a definition of other source milk. The proposed definitions were identical except that the emergency milk definition would apply to receipts during the delivery periods of August through November and the other source milk definition would apply to receipts during all other periods. Emergency milk would be subtracted from a handler's utilization on a pro rata basis, whereas other source milk would be deducted in series beginning with the lowest priced milk. These proposals were supported also by a representative of a group of handlers under Order 69. It was proposed that the compensatory payment feature of Order 41 be included to apply to any milk received from sources other than producers or other handlers used in violation of the applicable health requirements.

Certain data presented at the hearing show that during each month that Order 69 has been in effect, handlers under that order have received milk from producers, milk and cream from handlers under Order 41, and milk and milk products from sources other than those previously mentioned. The latter sources are plants where milk is not priced under any milk order issued pursuant to the act. At times Order 69 handlers have received considerable quantities of milk and cream from such unregulated sources. There was testimony, however, indicating that some of these receipts were obtained for manufacturing purposes and not as a supplement to the normal sources of supply for the purpose of meeting Class I and Class II milk requirements. The record indicates that the quantities of such receipts have tended to diminish during the most recent two-year period when receipts from Order 41 handlers were relied upon to a greater extent than previously to supplement the receipts from producers and other handlers under Order 69.

Provision is made in the order for a definition of other source milk. It does not appear necessary to include in addition a definition of emergency milk. It is provided that other source milk shall be deducted from a handler's utilization on a pro rata basis during the delivery periods of August through November. During all other months, other source milk will be deducted from a handler's utilization in series beginning with the lowest-priced milk. In the event a handler either uses other source milk for purposes which violate the requirements of an applicable health authority in the marketing area or receives other source milk from a pool plant under suspension, and such other source milk is allocated to Class I milk or Class II milk, the handler will be required to pay to producers through the pool an amount determined by multiplying the pounds of such Class I or Class II milk by the difference between the value as the appropriate class price and the value of such milk at the lowest announced price per hundredweight applicable for the delivery period. This is in part the same provision as is now contained in Order 41 and is designed to compensate producers for milk received from unregulated sources which is used for Class I or Class II purposes in violation of the applicable health requirements. Such compensation is appropriate inasmuch as producers under the order have incurred the necessary expense of meeting the applicable health requirements and the use of such other source milk in Class I or Class II products has the effect of reducing the producer returns since less of their milk is classified in the higher-priced classes and a larger quantity must be classified at manufacturing milk prices. The remainder of the provision is necessitated by the introduction of the provisions providing for the designation and suspension of pool plants.

A provision should be included to clarify the effect of the Chicago order with respect to milk which may be affected also by another Federal order.

Milk may be disposed of within the Chicago marketing area (other than to milk processing or distributing plants) from a plant where milk received is covered by a marketing agreement or order in effect in another marketing area. Also, milk may be disposed of in a similar manner within another Federal marketing area from a plant regulated by this order. In such instances it is desirable to prevent duplication of regulation to the greatest possible extent and avoid possible conflict in the application of more than one order to the same milk. Instances have occurred in which milk originating in plants under the Chicago and Suburban Chicago orders has been sold in other regulated marketing areas. It appears from the record that handlers regulated under other orders may establish routes within the revised Chicago marketing area in the future. For these reasons a provision, which is self-explanatory, has been included under the section on application of provisions to deal with such situations.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed order, as amended, and as hereby further amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Rulings on briefs. Briefs were filed on behalf of the Pure Milk Association (proponent), the Baldwin Cooperative Creamery et al., the Consolidated Badger Cooperative et. al., the Pure Milk Products Cooperative, the Associated Milk Dealers, Inc., the Committee for Order 69 Handlers, the Borden Company, the City Products Corporation, the Blochowiak Dairy et al., the Ice Cream Manufacturers' Association of Cook County, and the Pet Milk Company. The briefs contained proposed findings of fact, conclusions and argument with respect to the proposals discussed at the hearing. Every point covered in the briefs was carefully considered along with the

evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions in this decision.

Recommended Marketing Agreement and Order

The following order is recommended as the detailed and appropriate means by which these conclusions may be carried out. The proposed marketing agreement is not included because the regulatory provisions thereof would be the same as those contained in the order:

DEFINITIONS

§ 941.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 941.2 *Secretary.* "Secretary" means the Secretary of Agriculture or such other officer or employee of the United States authorized to exercise the powers and to perform the duties of the said Secretary of Agriculture.

§ 941.3 *Chicago, Illinois, marketing area.* "Chicago, Illinois, marketing area", hereinafter called the "marketing area" means the territory lying within the townships of Waukegan, Shields, West Deerfield, Deerfield and the city of Barrington, in Lake County; Cook and Du Page Counties; the townships of Dundee, Elgin, St. Charles, Geneva, Batavia, and Aurora in Kane County; the townships of Wheatland, Du Page, Plainfield, Lockport, Homer, Troy, Joliet, New Lenox and Frankfort in Will County, all in the State of Illinois; and the townships of North, Calumet and Hobart in Lake County, Indiana.

§ 941.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 941.5 *Dairy farmer.* "Dairy farmer" means any person who produces milk.

§941.6 *Pool plant.* "Pool plant" means any plant which meets the requirements of § 941.66 and is not under suspension pursuant to § 941.67.

§ 941.7 *Producer.* "Producer" means a dairy farmer whose milk is:

(a) Received at a pool plant directly from the farm where produced, or

(b) Qualified, upon satisfactory proof furnished to the market administrator, to be received at a pool plant and is caused by a handler to be delivered during part or all of the months of January through July, inclusive, for his account to a non-pool plant. Milk caused to be delivered pursuant to this paragraph shall be deemed to have been received at the pool plant from which diverted.

§ 941.8 *Handler.* "Handler" means any person who, on his own behalf or on behalf of others:

(a) Operates a pool plant,

(b) Processes or packages any Class I milk product, part or all of which is disposed of in the marketing area for consumption in fluid form,

(c) Processes or packages any Class II milk product which any applicable health authority requires to be made from approved milk, part or all of which is disposed of in the marketing area, or

(d) In a brokerage capacity, engages in buying milk, in bulk, from a person named in paragraphs (a), (b), or (c) of this section.

§ 941.9 *Regulated plant.* "Regulated plant" means a pool plant or a plant where any Class I milk product or Class II milk product (which any applicable health authority requires to be made from approved milk) is processed or packaged, part or all of which is disposed of in the marketing area.

§ 941.10 *Market Administrator.* "Market Administrator" means the agency which is described in § 941.20 for the administration hereof.

§ 941.11 *Delivery period.* "Delivery period" means the current marketing period from the first to the last day of each month, both inclusive.

§ 941.12 *Cooperative association.* "Cooperative association" means any cooperative association of producers which the Secretary determines to have its entire activities under the control of its members, and to have and to be exercising full authority in the sale of milk of its members.

§ 941.13 *Frozen cream.* "Frozen cream" means cream which is held in an approved cold storage warehouse at an average temperature below zero degrees Fahrenheit for seven (7) consecutive days, as shown by charts of a recording thermometer.

§ 941.14 *Grade A milk.* "Grade A milk" means milk in fluid form labeled Grade A and milk from which milk in fluid form labeled Grade A may be obtained.

§ 941.15 *Grade B milk.* "Grade B milk" means milk other than Grade A milk.

§ 941.16 *Other source milk.* "Other source milk" means any milk or milk product (except those milk products covered by the Class III milk, Class III (a) milk, or Class IV milk definitions which are not reused in another product) received by handlers from sources other than (a) producers, (b) pool plants of other handlers not under suspension pursuant to § 961.67, or (c) plants where milk is priced under another order issued pursuant to the act for any other milk marketing area.

MARKET ADMINISTRATOR

§ 941.20 *Selection, removal, and bond.* The agency for the administration hereof shall be a market administrator who shall be a person selected and subject to removal by the Secretary. The market administrator shall, within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

§ 941.21 *Compensation.* The market administrator shall be entitled to such reasonable compensation as shall be determined by the Secretary.

§ 941.22 *Powers.* The market administrator shall have the power to:

(a) Administer the terms and provisions hereof;

(b) Report to the Secretary complaints of violations hereof;

(c) Make rules and regulations to effectuate the terms and provisions hereof; and

(d) Recommend to the Secretary amendments hereto.

§ 941.23 *Duties.* The market administrator, in addition to the duties hereinafter described, shall:

(a) Keep such books and records as will clearly reflect the transactions provided for in this part;

(b) Submit his books and records to examination by the Secretary at any and all times;

(c) Furnish such information and such verified reports as the Secretary may request;

(d) Obtain a bond with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(e) Publicly disclose, after reasonable notice, the name of any person who has not made reports pursuant to § 941.30, or made payments required by §§ 941.80 through 941.84, 941.86, 941.87, 941.88 (b).

(f) Prepare and disseminate, for the benefit of producers, consumers, and handlers, such statistics and information concerning the operation hereof as do not reveal confidential information;

(g) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions of this part; and

(h) Pay, out of the funds received pursuant to § 941.86, the cost of his bond and of the bonds of such of his employees as handle funds entrusted to the market administrator, his own compensation, and all other expenses, except those incurred under § 941.87, which will necessarily be incurred by him for the maintenance and functioning of his office and the performance of his duties.

§ 941.24 *Announcement of prices.* The market administrator shall compute and publicly announce prices as follows:

(a) Not later than the 5th day after the end of each delivery period, the prices for all classes of milk pursuant to § 941.52 and the differential pursuant to § 941.82.

(b) Not later than the 14th day after the end of each delivery period, the uniform prices computed pursuant to § 941.71.

REPORTS OF HANDLERS

§ 941.30 *Submission of reports.* Each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(a) On or before the 10th day after the end of each delivery period:

(1) The pounds and butterfat test of and the butterfat pounds in milk and

milk products received from producers (including his own farm production), from other handlers, from plants under other Federal marketing agreements and orders, and as other source milk; and

(2) The utilization of all receipts of milk and milk products for the delivery period.

(b) On or before the 25th day after the end of each delivery period, his producer payroll, which shall show for each producer:

(1) The total delivery of milk with the average butterfat test thereof,

(2) The net amount of payment to such producer made pursuant to § 941.80 (b),

(3) Any deductions and charges made by the handler, and

(4) Such other information with respect thereto as the market administrator may request.

§ 941.31 *Verification of reports and payments.* The market administrator shall verify all reports and payments of each handler by audit of such handler's records and of the records of any other handler or person upon whose disposition of milk such handler claims classification, and by such investigation as the market administrator deems necessary. Each handler shall keep adequate records of receipts and utilization of milk and, during the usual hours of business, shall make available to the market administrator such records and facilities as will enable him to:

(a) Verify the receipts and disposition of all milk required to be reported pursuant to § 941.30, and, in case of errors or omissions, ascertain the correct figures;

(b) Weigh, sample, and test for butterfat content the milk received from producers and any product of milk upon which classification depends; and

(c) Verify the payments to producers and to associations of producers as prescribed in §§ 941.80 and 941.88 (b).

§ 941.32 *Retention of records.* All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided*, That if, within such three-year period the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION OF MILK

§ 941.40 *Basis of classification.* All milk and milk products received by a handler (including his own farm production) shall be reported by the handler in the classes set forth in paragraph (b) of this section: *Provided*, That:

(a) Any milk moved as milk or skim milk in fluid form from a regulated plant to a plant at which the handling of milk is subject to pricing and payment under any marketing agreement or order issued pursuant to the act for any other fluid milk marketing area shall be classified as Class I milk, and any milk so moved as cream in fluid form shall be classified as Class II milk. If satisfactory proof is furnished to the market administrator that such milk, skim milk, or cream was in excess of the total amount used in Class I milk or Class II milk, respectively (as defined in § 941.41), at the latter plant, such excess shall be classified according to its utilization. If this paragraph is applicable, then paragraphs (b), (c), (d), (e), and (f) of this section do not apply.

(b) Any milk moved as milk or skim milk in fluid form from a regulated plant to any place located outside the following area (hereinafter referred to as "surplus milk manufacturing area"), shall be classified as Class I milk, any milk so moved as cream in fluid form, frozen cream, other cream frozen, plastic cream, powdered cream, or any cream product in fluid form, including any bulk condensed or evaporated milk product containing more than 12 percent butterfat, shall be classified as Class II milk, and any milk so moved as any other milk product containing butterfat shall be classified according to the form in which it leaves the plant of shipment: the State of Wisconsin; the counties of Stark, Marshall, Woodford, Livingston, Ford, Iroquois, Jo Daviess, Stephenson, Winnebago, Boone, McHenry, Lake, Carroll, Ogle, De Kalb, Kane, Cook, Du Page, Whiteside, Lee, Rock Island, Henry, Bureau, Putnam, La Salle, Kendall, Grundy, Will, Kankakee, Peoria, McLean, Champaign, and Shelby, in the State of Illinois; the counties of Benton, White, Cass, Miami, Howard, Carroll, Tippecanoe, Tipton, Clinton, Fountain, Warren, Parks, Vermillion, Vigo, Sullivan, Lake, Newton, Porter, Jasper, La Porte, Starke, Pulaski, St. Joseph, Marshall, Fulton, Kosciusko, Wabash, and Elkhart, in the State of Indiana; the counties of Ottawa, Kent, Allegan, Barry, Calhoun, St. Joseph, Van Buren, Kalamazoo, Cass, and Berrien, in the State of Michigan, and the county of Van Wert in the State of Ohio.

(c) Any milk moved as milk, skim milk, or cream in fluid form from a regulated plant to an unregulated plant located within the surplus milk manufacturing area, which manufactured during the delivery period butter, cheese (except cottage cheese), evaporated milk, condensed milk or skim milk, whole milk powder, nonfat dry milk solids, casein or ice cream powder shall be classified under § 941.41 according to its utilization at the latter plant, as shown by adequate daily records: *Provided*, That: (1) If in the unregulated plant such receipts from a regulated plant are commingled with its other receipts, the receipts of the regulated milk or skim milk shall be allocated, according to such daily records, to the available quantity of Class III (a) milk, Class III milk, Class IV milk, Class II milk, and Class I milk, in that sequence; and any such receipts of regulated cream shall be allocated to Class IV milk, Class III milk, Class III (a) milk, Class II milk, and Class I milk, in that sequence; and (2) if the unregulated plant does not make available to the market administrator adequate utilization records on a daily basis, but does make available to the market administrator adequate utilization records on a monthly basis, the milk received from a regulated plant shall be allocated to the available quantity of Class I milk, Class II milk, Class III milk, Class III (a) milk and Class IV milk, in that sequence; and the cream received from a regulated plant shall be allocated to the available quantities of Class II milk, Class III milk, Class III (a) milk, Class IV milk, and Class I milk, in that sequence.

(d) Any milk moved as milk or skim milk in fluid form from a regulated plant to any unregulated plant located within the surplus milk manufacturing area which did not manufacture any of the products named in paragraph (c) of this section during the delivery period shall be classified as Class I milk, and any milk so moved as cream in fluid form shall be classified as Class II milk.

(e) Any milk moved from a regulated plant to a regulated plant of another handler shall be reported as Class I milk if moved as milk or skim milk in fluid form, and shall be reported as Class II milk if moved as cream in fluid form, unless utilization in another class is indicated in writing to the market administrator by both handlers on or before the 10th day after the end of the delivery period within which such transfer was made, but in no event shall the amount so reported in any class exceed the total used in such class by the receiving handler.

§ 941.41 *Classes of utilization.* Subject to the conditions set forth in §§ 941.40, 941.42, 941.43, 941.44, and 941.45, the classes of utilization of milk shall be as follows:

(a) Class I milk shall be all milk and milk products (1) disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, or flavored milk drinks, (2) disposed of as concentrated (including frozen) milk, flavored milk, or flavored milk drinks not sterilized and not otherwise specified under paragraph (c) of this section, and (3) not accounted for (i) under subparagraphs (1) and (2) of this paragraph, and (ii) as Class II milk, Class III milk, Class III (a) milk, and Class IV milk, except that this definition shall not include milk disposed of in bulk as any product mentioned in subparagraph (1) or (2) of this paragraph to bakeries, soup companies, and candy manufacturing establishments in their capacity as such.

(b) Class II milk shall be all milk and milk products the butterfat from which is contained in sweet or sour cream, any cream product in fluid form having more than 6 percent butterfat, butter cream, filled cream, frozen cream, plastic cream, powdered cream, eggnog, yogurt, ice cream, ice cream mix (liquid or powder), cottage cheese, and any other milk product of composition and texture similar

to any of the products named in this paragraph, except that this definition shall not include butterfat

(1) In cream or cream products in fluid form, powdered cream, filled cream, and cottage cheese disposed of in bulk to bakeries, soup companies, and candy manufacturing establishments in their capacity as such; and

(2) Derived from Grade B milk and used in frozen cream, plastic cream, ice cream, and ice cream mix (liquid or powder) if such use is not in violation of the applicable health requirements.

(c) Class III milk shall be all milk and milk products the butterfat from which is contained in:

(1) Condensed milk or skim milk (sweetened or unsweetened) disposed of to commercial food processors, sweetened condensed milk in hermetically sealed cans, evaporated milk, and nonfat dry milk solids (the products specified in this subparagraph are referred to hereinafter as Class III (a) milk);

(2) Any other product not included in Class I milk, Class II milk, or Class IV milk;

(3) Products disposed of in bulk to bakeries, soup companies and candy manufacturing establishments pursuant to the exceptions in paragraphs (a) and (b) (1) of this section; and

(4) Frozen cream, plastic cream, ice cream, and ice cream mix (liquid or powder) referred to in the exception in paragraph (b) (2) of this section.

(d) Class IV milk shall be all milk and milk products the butterfat from which is:

(1) Contained in butter, cheese (except cottage cheese), inventory variations, and products lost in transit by a handler; and

(2) Actual shrinkage, but in an amount not to exceed one-half percent of the total pounds of butterfat received directly from producers plus 1½ percent of the total pounds of butterfat in bulk milk, skim milk, and cream in fluid form received at a regulated plant from all sources which were not disposed of in bulk to a regulated plant of another handler: *Provided*, That such shrinkage shall be allowed in this class only if records of utilization satisfactory to the market administrator are available.

§ 941.42 *Responsibility of handlers.* In establishing classification the responsibility of handlers shall be as follows: Any milk received from producers shall be classified as Class I milk unless the handler who receives such milk directly from producers proves to the satisfaction of the market administrator that such milk should be classified in another class without regard to whether such milk has been used or disposed of (whether in original or other form) by such handler(s), or by any unregulated plant(s).

§ 941.43 *Correction of classification and reclassification.* (a) The classification of any milk or milk product shall be corrected by the market administrator if upon his audit it is found that such classification was reported incorrectly or incompletely by the handler.

(b) Any milk or milk product reported by a handler as having been used or disposed of in any class which is found by the market administrator to have been reused or redisposed of (whether in original or other form) in a different class by such handler, by any other handler, or by the first unregulated plant engaged in processing milk products, located within the surplus milk manufacturing area to which such milk or product was moved, shall be reclassified by the marketing administrator in accordance with such latter use or disposition: *Provided, however*, That any classification made pursuant to § 941.40 (a), (b), (c), and (d) shall not be subject to reclassification.

(c) If, in the application of paragraph (a) or (b) of this section, the ultimate use or disposition of the affected milk or milk product was at a plant receiving milk or milk products from more than one handler, the market administrator may assign the change, or correction, in classification to the major supplying handler(s), but not to an extent greater than the amount received from such supplying handler(s).

(d) If the application of paragraph (a), (b), or (c) of this section discloses a higher classification than that reported pursuant to § 941.30 (a) with respect to milk or milk products received by a handler from a cooperative association, the market administrator shall notify the receiving handler of such change and of the amount of money involved and such handler within five days thereafter shall pay such amount to the cooperative association.

§ 941.44 *Computation of milk in each class.* For each delivery period, each handler, with respect to all milk and milk products received by him (including his own farm production), shall compute, in the manner and on forms prescribed by the market administrator, the amounts in each class, as follows:

(a) Determine the total pounds of milk and milk products received from producers (including such handler's own farm production), from other handlers, from plants under other Federal marketing agreements or orders, and as other source milk, and add together the resulting amounts;

(b) Determine the total pounds of butterfat received as follows: Multiply by their respective average butterfat test the weights of milk and milk products received from producers (including such handler's own farm production), from other handlers, from plants under other Federal marketing agreements or orders, and as other source milk, and add together the resulting amounts;

(c) Determine the total pounds of Class I milk as follows:

(1) Convert to pounds on the basis of 2.15 pounds per quart (in case of nonconcentrated flavored milk and flavored milk drinks 2 pounds per quart) the volume disposed of in each of the several items of Class I milk, except in the case of converting milk, flavored milk or flavored milk drinks in concentrated form such conversion shall apply to the volume of milk used in the production of the concentrated product rather than to the volume of finished product.

(2) Multiply each of the resulting amounts by its average butterfat test (in the case of flavored milk and flavored milk drinks the test to be used shall be the average fat test of the finished product if the handler's production records do not show the amount of butterfat contained therein); and add the results so obtained.

(3) If the total pounds of butterfat so computed when added to the sum of the pounds of butterfat computed pursuant to paragraphs (d) (2), (e) (2), and (f) (7) of this section are less than the total pounds of butterfat computed pursuant to paragraph (b) of this section, divide the difference by .035; and

(4) Add together the results obtained pursuant to subparagraphs (1) and (3) of this paragraph;

(d) Determine the total pounds of Class II milk as follows:

(1) Multiply the actual weight of each of the several items of Class II milk by its average butterfat test;

(2) Add together the resulting amounts; and

(3) Divide the result obtained in subparagraph (2) of this paragraph by .035;

(e) Determine the total pounds of Class III milk (with Class III (a) milk items computed separately) as follows:

(1) Multiply the actual weight of each of the several items of Class III milk by its average butterfat test;

(2) Add together the resulting amounts; and

(3) Divide the result obtained in subparagraph (2) of this paragraph by .035;

(f) Determine the total pounds in Class IV milk as follows:

(1) Multiply the actual weight of each of the several items of Class IV milk (other than inventory variation) by its average butterfat test;

(2) Determine the difference in pounds of butterfat contained in inventories at the beginning and end of the delivery period;

(3) Add together the pounds of butterfat obtained in subparagraphs (1) and (2) of this paragraph;

(4) Add the total pounds of butterfat computed pursuant to paragraphs (c) (2), (d) (2), and (e) (2) of this section to the total pounds of butterfat computed pursuant to subparagraph (3) of this paragraph;

(5) Subtract the total pounds of butterfat computed pursuant to subparagraph (4) of this paragraph from the total pounds of butterfat computed pursuant to paragraph (b) of this section, and the difference is the pounds of butterfat in actual shrinkage unless such difference is a minus quantity, in which case the butterfat shrinkage is zero for purposes of all computations required by this section;

(6) Determine the maximum number of pounds of butterfat shrinkage in Class IV milk by multiplying by 1½ percent the pounds of butterfat in bulk milk, skim milk, or cream in fluid form received at a regulated plant from all sources which were not disposed of in bulk to other handlers, and adding such amount to the result obtained by multiplying by ½ percent the pounds of butterfat received directly from producers: *Provided*, That the pounds determined pursuant to this subparagraph shall be zero if records of utilization satisfactory to the market administrator are not available;

(7) Add to the amount computed pursuant to subparagraph (3) of this paragraph the smaller of the amounts determined pursuant to subparagraphs (5) and (6) of this paragraph;

(8) Divide the pounds of butterfat obtained in subparagraph (7) of this paragraph by .035; and

(g) Determine the pounds of overrun as follows: In the event the pounds of butterfat computed pursuant to paragraph (f) (4) of this section are greater than the pounds of butterfat computed pursuant to paragraph (b) of this section, subtract the smaller amount from the larger amount and divide the result by .035.

§ 941.45 *Allocation of classified milk.* The pounds remaining in each class after making the following computations shall be the pounds of producer milk in such class:

(a) Subtract pro rata from the pounds in each class, the pounds of milk received from the handler's own farm production;

(b) Subtract from the remaining pounds in each class, the pounds of milk and milk products received from other handlers and assigned to such class (§ 941.40 (e));

(c) Subtract from the remaining pounds in each class, the pounds of milk equivalent of frozen cream or any other product that has been classified in an earlier delivery period and used in such class in the current delivery period;

(d) Subtract from the remaining pounds in each class, the pounds of milk and milk products received in packaged form from a handler under another Federal order and used in such class; the pounds of bulk milk and skim milk in fluid form received from such source, from Class I milk; and the pounds of milk equivalent of bulk cream in fluid form received from such source, from Class II milk;

(e) Subtract, in the case of other source milk received in the form of a product named in Class III milk, Class III (a) milk or Class IV milk, the pounds of such other source milk used as Class I milk and Class II milk, respectively, from the remaining pounds in the class of use;

(f) Subtract for the delivery periods of December through July, inclusive, from the remaining pounds in each class (except the pounds in inventory variation and shrinkage) in series beginning with the lowest-priced class, the pounds of other source milk not deducted pursuant to paragraph (e) of this section;

(g) Subtract for the delivery periods of August through November, inclusive, pro rata from the remaining pounds in Classes II, III, III (a) and IV (except the pounds in inventory variation and shrinkage) the pounds of other source milk received in products other than milk in fluid form and those items deducted pursuant to paragraph (e) of this section;

(h) Subtract, for the delivery periods of August through November, inclusive, pro rata from the remaining pounds in each class (except the pounds in inventory variation and shrinkage) the pounds of other source milk received in the form of milk;

(i) Subtract from the remaining pounds in each class in series beginning with the lowest-priced class, the pounds of overrun;

(j) If after making the applicable deductions pursuant to paragraphs (a) through (i) of this section, inclusive, the amount of Class I milk plus the 18 percent cream equivalent of butterfat remaining in the pounds in Class II, III, III (a), and IV milk is greater than the amount of milk received from producers, deduct the difference from the remaining amount of Class I milk; and

(k) In the event the total pounds remaining in the several classes are greater, or less, than the pounds of milk received from producers (excluding the handler's own production) reconciliation shall be effected by respectively deducting such difference from, or adding such differences to, the class to which the lowest announced price is applicable.

MINIMUM PRICES

§ 941.50 *Basic formula price.* The basic formula price to be used in computing the prices for Class I milk and Class II milk for each delivery period shall be the higher of the prices for Class III milk and Class IV milk as computed by the market administrator pursuant to paragraphs (c) and (d) of § 941.52 for the delivery period next preceding.

§ 941.51 *Supply and demand ratio.* On or before the last day of each delivery period the market administrator shall make the following computations based upon information obtained from handlers' reported receipts and utilization:

(a) Determine the total receipts of Grade A milk from all producers (including receipts from own farm production) for the most recent 6-month period and divide the result by 6;

(b) Determine the total pounds of Grade A milk actually utilized in Class I milk and Class II milk products during the most recent 6-month period and subtract therefrom (1) the amount of Class I and Class II milk disposed of in bulk outside the surplus milk marketing area, and (2) the amount of Class II milk represented by frozen cream and plastic cream moving into storage during such 6-month period, and divide the result by 6;

(c) Divide the amount obtained in paragraph (b) by the amount obtained in paragraph (a) of this section and round to the nearest full percent, which resulting percentage shall be known as the "current supply-demand ratio";

(d) Determine the number of percentage points that the current supply-demand ratio is above or below the percentage for the corresponding 6 months' period appearing in the following schedule:

6 months included in supply-demand ratio computation	Percent	Delivery period subject to adjustment
January through June	62	August.
February through July	62	September.
March through August	64	October.
April through September	67	November.
May through October	71	December.
June through November	76	January.
July through December	81	February.
August through January	79	March.
September through February	76	April.
October through March	72	May.
November through April	68	June.
December through May	64	July.

(e) In making the computations specified in paragraphs (a) and (b) of this section, the market administrator shall use the reported receipts and utilization of handlers of Grade A milk under both Orders 41 and 69 when it is necessary to use data for delivery periods prior to the effective date of this section.

§ 941.52 *Class prices.* Subject to the appropriate location adjustment credits, as set forth in § 941.53, each handler, at the time and in the manner set forth in § 941.80, shall pay per hundredweight of milk received during each delivery period from producers or from cooperative associations, not less than the prices set forth below in this section:

(a) *Class I milk.* (1) The price for Grade A Class I milk, except as set forth in subparagraph (3) of this paragraph, shall be the basic formula price plus the following amount for the delivery periods indicated: May and June, $0.50; July, August, September, October, and November, $0.90; all others, $0.70: *Provided,* That for each percent that the most recently computed supply-demand ratio is greater or less than the applicable percentage contained in the schedule in § 941.51 (d), the Class I price shall be increased or decreased, respectively, by the following amount for the delivery period indicated: May and June, $0.02; July, August, September, October, and November, $0.04; all others $0.03: *Provided further,* That any adjustment made pursuant to the above proviso in this subparagraph shall be limited to 18 cents in May and June; 30 cents in the July–November period; and 24 cents in all other delivery periods; but in no event shall the Class I price differential computed pursuant to this subparagraph be less than 50 cents.

(2) The price for Grade B Class I milk, except as set forth in subparagraph (3) of this paragraph, shall be the price for Grade A Class I milk less $0.10.

(3) Grade A or Grade B Class I milk moved in bulk to any place outside the surplus milk manufacturing area during any of the delivery periods of August, September, October, or November, shall be classified separately and its price shall be $0.70 higher than the prices otherwise computed pursuant to subparagraphs (1) and (2), respectively, of this paragraph.

(b) *Class II milk.* (1) The price for Grade A Class II milk, except as set forth in subparagraph (3) of this paragraph, shall be the basic formula price plus the following amount for the delivery periods indicated: May and June, $0.30; July, August, September, October, and November, $0.50; all others, $0.40; *Provided,* That such amount for the delivery period shall be adjusted by the amount of any adjustment made in the Class I price differential pursuant to the provisos of subparagraph (1) of this paragraph; but in no event shall the Class II price differential computed pursuant to this subparagraph be less than 40 cents in the July–November period or less than 30 cents in all other delivery periods.

(2) The price for Grade B Class II milk, except as set forth in subparagraph (3) of this paragraph, shall be the price for Grade A Class II milk less $0.10.

(3) Grade A or Grade B Class II milk moved in bulk to any place outside the surplus milk manufacturing area during any of the delivery periods of August, September, October, or November, shall be classified separately and its price shall be $0.70 higher than the price otherwise computed pursuant to subparagraphs (1) and (2), respectively, of this paragraph.

(c) *Class III milk.* The price per hundredweight for Class III milk shall be the highest of the prices resulting from the respective formulas set forth in (1) and (2) of this paragraph and in paragraph (d) of this section: *Provided,* That the price resulting from the formula set forth in subparagraph (1) of this paragraph shall apply at all times to Class III (a) milk.

(1) The average of the prices per hundredweight reported to have been paid, or to be paid, for such delivery period to farmers for milk containing 3.5 percent butterfat delivered during such delivery period at each of the following listed manufacturing plants or places for which prices are reported to the United States Department of Agriculture or to the market administrator:

Companies and Location

Borden Co., Black Creek, Wis.
Borden Co., Greenville, Wis.
Borden Co., Mount Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Jefferson, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(2) The price per hundredweight computed from the following formula:

(i) Multiply the simple average as computed by the market administrator, of the daily average wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the United States Department of Agriculture during the delivery period, by 6;

(ii) Add 2.4 times the simple average, as published by the United States Department of Agriculture, of the prices determined per pound of "Cheddars" on the Wisconsin Cheese Exchange at Plymouth, Wisconsin, for the trading days that fall within the month;

(iii) Divide by 7;

(iv) Add 30 percent thereof; and

(v) Multiply by 3.5.

(d) *Class IV milk.* The price per hundredweight for Class IV milk shall be that computed from the following formula:

(1) Multiply by 4.24 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by the United States Department of Agriculture during the delivery period: *Provided,* That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for spray process nonfat dry milk solids, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding delivery period through the 25th day of the current delivery period, by the United States Department of Agriculture; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 75.2 cents.

§ 941.53 *Location adjustment credits to handlers.* (a) The location adjustment credit with respect to that portion of milk received directly from producers at a pool plant (1) which is moved as milk or skim milk in fluid form from such pool plant to a regulated plant which is located less than 70 miles from the City Hall in Chicago, or (2) which is classified as Class I milk but did not move in the manner described in subparagraph (1) of this paragraph or in paragraph (b) (1) of this section, shall be 2 cents per hundredweight (in the case of milk or skim milk shipped in concentrated form as a product under § 941.41 (a) (2) the allowance shall be computed on the volume of concentrated product) for each 15 miles or fraction thereof that such plant shipping is located more than 70 miles from the City Hall in Chicago, but not to exceed a total credit of 42 cents per hundredweight: *Provided,* That there shall be no location adjustment credit with respect to Class I milk pursuant to § 941.41 (a) (3).

(b) The location adjustment credit with respect to that portion of milk received directly from producers at a pool plant (1) which is moved as cream in fluid form from such pool plant to a regulated plant engaged in the processing of any Class I milk or Class II milk product which is located less than 70 miles from the City Hall in Chicago, or (2) which is classified as Class II milk but did not move in the manner described in paragraph (a) (1) of this section or in subparagraph (1) of this paragraph, shall be ascertained by dividing the pounds of butterfat contained therein by 0.36 and applying to the result the applicable rate per hundredweight specified in the following table:

Distance from the Pool Plant to the City Hall in Chicago:	*Cents per hundredweight*
0 to 70 miles (zone 1)	0
70.1 to 85 miles (zone 2)	5
85.1 to 115 miles (zones 3 and 4)	10
115.1 to 160 miles (zones 5, 6, and 7)	20
160.1 to 220 miles (zones 8, 9, 10, and 11)	30
220.1 to 250 miles (zones 12 and 13)	35
250.1 to 310 miles (zones 14, 15, 16, and 17)	40
310.1 and over (zones 18 and over)	50

(c) The burden rests upon the handler who receives the milk from producers to prove to the market administrator that the conditions required for the receiving of location adjustment credits have been fulfilled.

APPLICATIONS OF PROVISIONS

§ 941.60 *Handlers who are also producers.* No provision hereof shall apply to a handler whose sole sources of supply are receipts from his own production and from other handlers, except that such handlers shall make reports to the market administrator at such time and in such manner as the market administrator may request.

§ 941.61 *Payment for other source milk.* In the event a handler uses other source milk for purposes which violate the requirements of an applicable health authority in the marketing area or other source milk originating from a plant under suspension pursuant to § 941.67, and such other source milk is allocated to Class I milk or Class II milk pursuant to § 941.55 (e), (f), (g), or (h), the market administrator in computing the net pool obligation for such handler pursuant to § 971.70 shall add an amount determined by multiplying the pounds of other source milk so allocated to Class I milk or Class II milk by the difference between the value at the appropriate class price and the value at the lowest announced price per hundredweight applicable for the delivery period.

§ 941.62 *Payment for overrun.* The market administrator, in computing the net pool obligation for each handler pursuant to § 941.70 shall add an amount determined by multiplying the pounds of overrun pursuant to § 941.44 (g) by the appropriate price pursuant to its allocation in § 941.45 (i); *Provided,* That if the handler did not receive milk directly from producers, an amount obtained by multiplying the quantity of overrun by the lowest announced price per hundredweight shall be subtracted from the amount obtained above in this section.

§ 941.63 *Butterfat in skim milk.* A handler may claim, for classification purposes pursuant to §§ 941.40 through 941.45 butterfat in skim milk disposed of to others or used in the manufacture of milk products by including the butterfat content of such skim milk in his report for the delivery period filed pursuant to § 941.30 (a) or by giving prior notification to the market administrator of his desire to do so. In the event that a handler does not have adequate records of the butterfat content of such skim milk, the market administrator shall use 0.06 percent as the butterfat content per hundredweight of such skim milk: *Provided,* That if the handler desires to discontinue accounting for butterfat in skim milk, or after discontinuing the accounting therefor desires to again account for the same, he may do so by notifying the market administrator in writing at least 30 days prior to the first day of the delivery period during which such change shall become effective.

§ 941.64 *Separate classification of Grade A milk and Grade B milk.* (a) Subject to paragraphs (b) and (c) of this section, Grade A milk and Grade B milk shall be separately classified.

(b) All milk received from producers at a plant from which any Grade A milk

is disposed of shall be deemed to be Grade A milk unless such milk is identified and handled in acordance with the conditions set forth in paragraph (c) of this section.

(c) In the case of milk received from producers at a plant which an applicable health authority has approved for receiving, processing, and distributing both Grade A milk and Grade B milk and the Grade A milk is received from producers specifically designated by the health authority as qualified to produce such milk, the market administrator shall determine the classification of Grade A milk and Grade B milk, respectively, in the following manner:

(1) If the handler operating such a plant maintains adequate accounts and records of quantities of each grade of milk and practices complete segregation of Grade A milk and Grade B milk receipts, the market administrator, in applying §§ 941.40 through 941.45, shall determine separate classifications for Grade A milk and Grade B milk in such plant.

(2) In the event adequate records are not maintained or complete segregation is not practiced, the receipts of Grade A milk shall be allocated to the available quantity of Class I milk, Class II milk, Class III milk, Class III (a), and Class IV milk, in that sequence.

§ 941.65 *Determination of mileages.* All mileages relating to location adjustment credits to handlers pursuant to § 941.53, location adjustments to producers pursuant to § 941.81, and payment for milk pursuant to § 941.80, shall be computed by the market administrator by rail or highway distance, whichever is shorter: *Provided,* That the rail distance shall be the sum of the following:

(a) The highway distance between the handler's plant and the railroad loading point (but not to exceed 25 miles);

(b) The rail distance by the most direct single rail line between the loading point and the rail terminal in Chicago; and

(c) The highway distance between the appropriate rail terminal and the City hall in Chicago.

(1) Mileage shall be subject to redetermination at all times and in the event a handler requests a redetermination of the mileages pertaining to any plant, the market administrator shall notify the handler of his findings within 30 days after receipt of such request.

(2) Any financial obligations resulting from a change in mileage shall not be retroactive for any period prior to the redetermination announced by the market administrator.

§ 941.66 *Pool plant.* "Pool plant" means any plant which receives milk from dairy farmers and which:

(a) Processes and packages any Class I milk product specified in § 941.41 (a) (1), all or a part of which is disposed of in the marketing area for consumption in fluid form, or

(b) Is approved by the Board of Health for receiving milk which may be disposed of as Class I milk or Class II milk in Chicago, Illinois, and which is not the type of plant described in paragraph (a) of this section and is not under suspension as a pool plant pursuant to § 941.67; or

(c) Is not approved by the Board of Health of Chicago, Illinois, and which ships at least 50 percent of the butterfat received from dairy farmers as milk or cream in fluid form to a plant(s) described in paragraph (a) of this section. Any plant which fulfills this requirement for the months of September, October, and November of the same year shall be a pool plant until September 1 of the following year: *Provided,* That the milk received at the plant continues to be qualified under the applicable health requirements as a source of milk for the plants supplied by it during said months: *And provided further,* That the plant operator does not notify the market administrator that the plant should be withdrawn from the pool; in the event such notification is given, the plant will no longer be a pool plant, starting with the beginning of the delivery period following receipt of the notification by the market administrator, except during delivery period(s) in which the condition set forth in the first sentence of this paragraph is fulfilled.

§ 941.67 *Suspension of pool plants.* (a) Beginning in 1952 any plant described in § 941.66 (b) shall be suspended automatically as a pool plant, such suspension to be effective during each of the delivery periods of February through July inclusive of the next succeeding year, unless

(1) At least 50 percent of the butterfat in milk received from dairy farmers at such plant during each of the delivery periods of September, October, and November is (i) shipped as milk or cream in fluid form to a plant(s) which processes and packages Class I milk or Class II milk, all or part of which is disposed of in the marketing area, or (ii) disposed of from such plant as Class I milk or Class II milk within the surplus milk manufacturing area other than to a regulated plant.

(2) Such plant notifies the market administrator in writing not later than the 10th day of the delivery period in each of the delivery periods of September, October, and November that it is able and willing to ship as milk or cream in fluid form to any plant(s) which processes and packages Class I milk or Class II milk all or part of which is disposed of in the marketing area, at prices and terms therein stated, a specified amount of milk or cream in fluid form during the remaining portion of the delivery period covered by said notice, which together with such amount as it may have already utilized on its own premises or shipped to any such plant(s) in said delivery period, shall be not less than 50 percent of the butterfat received by it from dairy farmers during the preceding delivery period. Upon receipt of said notice, the market administrator shall forthwith make the offer and terms thereof public by transmitting the same to all handlers.

(b) The market administrator shall maintain at his office a list of plants (including plant location and name of operator) suspended pursuant to this section which shall be made available to any interested person upon request.

(c) Any milk received at a pool plant or by a handler from a suspended pool plant during the period of its suspension shall be other source milk.

§ 941.68 *Milk under more than one Federal order.* (a) Milk disposed of within the Chicago, Illinois, marketing area (other than to a regulated plant) as any item of Class I milk or Class II milk from a plant receiving milk subject to the class price provisions of a marketing agreement or order issued pursuant to the act for another marketing area shall not be subject to the class price provisions or to § 941.80 through § 941.88 of this part, except that if the price per hundredweight for the class of utilization under the other order is less than the price per hundredweight of the applicable class of utilization under this order with respect to such item(s) (each price to be adjusted to 3.5 percent butterfat content and by any applicable location differential), an amount of money representing the difference in such prices multiplied by the quantity (in the case of Class II milk items the 3.5 percent milk equivalent of butterfat) so disposed of within the Chicago, Illinois, marketing area shall be paid to the market administrator by the handler operating such plant on or before the 16th day after the delivery period for deposit in the producer settlement fund (§ 941.83).

(b) Milk received from producers at a pool plant shall be exempt from the class price provisions and §§ 941.80 through 941.88 of this part if (1) the Secretary determines that the quantity of Class I milk, as defined in § 941.41 (a), disposed of from such plant to any outlet(s), other than a milk processing or milk distributing plant, in a marketing area defined in a marketing agreement or order issued pursuant to the act for another marketing area is greater than the quantity of Class I milk disposed of from such plant within the Chicago, Illinois, marketing area, and (2) the milk at such plant would be subject to the class price and payment provisions of the other marketing agreement or order upon being made exempt from this order.

DETERMINATION OF UNIFORM PRICE

§ 941.70 *Net pool obligation(s) of handlers.* On or before the 14th day of each delivery period the market administrator shall examine for mathematical correctness and obvious errors the report of receipts and utilization submitted by each handler for the preceding delivery period and shall make such corrections as such examination shall indicate to be appropriate. A separate net pool obligation for Grade A milk and Grade B milk received from producers shall be computed for each handler (based upon his reports) as follows:

(a) Multiply the producer milk in each class by the applicable class price and add together the resulting amounts;

(b) Add the amount of any payments required to be made pursuant to §§ 941.61 and 941.62;

(c) Subtract all location adjustment credits computed pursuant to § 941.53; and

(d) Subtract 6¢ per hundredweight on all milk received from producers at a regulated plant located within the marketing area.

§ 941.71 *Computation of uniform prices.* The market administrator shall compute separate uniform prices per hundredweight of Grade A milk and Grade B milk for each delivery period. Each computation shall be made in the following manner:

(a) Combine into one total the net pool obligation of all handlers computed pursuant to § 941.70;

(b) Add the aggregate of all allowable location adjustments computed pursuant to § 941.81;

(c) Add an amount representing the unobligated cash balance in the applicable producer-settlement fund on hand at the close of business on the last day of the delivery period;

(d) Divide the result by the total hundredweight of producer milk of all handlers whose net pool obligations are included pursuant to paragraph (a) of this section; and

(e) Subtract not less than 4¢ nor more than 5¢ as a producer-settlement fund reserve. The result shall be the uniform price per hundredweight (for the grade of milk involved) of milk containing 3.5 percent of butterfat received from producers at pool plants located more than 55 miles but not more than 70 miles from the City Hall in Chicago, Illinois.

PAYMENTS

§ 941.80 *Time and method of payment for producer milk.* (a) On or before the 15th day after the end of each delivery period each handler shall pay to each cooperative association which is also a handler for milk received from it during the delivery period not less than the total value of such milk computed by multiplying the pounds of such milk in each class by the applicable class price subject to the location adjustment credit pursuant to § 941.53 and to a butterfat differential computed as in § 941.82, plus 4¢ per hundredweight if the milk was received from producers at a pool plant located within the marketing area and 2¢ if received at a pool plant located outside the marketing area and not more than 55 miles from the City Hall in Chicago.

(b) On or before the 18th day after the end of each delivery period each handler shall pay to each producer per hundredweight of milk received from him during such delivery period not less than the uniform price, subject to the location adjustment and butterfat differential provided by §§ 941.81 and 941.82: *Provided,* That if the milk was received from such producer at a pool plant located within the marketing area, an additional payment of 10¢ per hundredweight of such milk shall be made, and if the milk was received from such producer at a pool plant located outside the marketing area but not more than 55 miles from the City Hall in Chicago, an additional payment of 2¢ per hundredweight of such milk shall be made.

§ 941.81 *Location adjustments to producers.* In making payments to producers pursuant to § 941.80 (b), each handler shall deduct per hundredweight of milk received from producers at a pool plant located more than 70 miles from the City Hall in Chicago, 2¢ for each 15 miles, or fraction thereof, greater than 70 miles.

§ 941.82 *Butterfat differential on producer milk.* For each one-tenth of 1 percent above or below 3.5 percent in average butterfat content of milk delivered by any producer during any delivery period, the uniform price paid to such producer shall be plus or minus, as the case may be, an amount computed as follows: To the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the United States Department of Agriculture for the delivery period during which the milk was received, add 20 percent, divide the result obtained by 10, and adjust to the nearest 1/10 cent.

§ 941.83 *Producer-settlement funds.* The market administrator shall establish and maintain separate funds known as "Producer-settlement funds" for Grade A milk and Grade B milk, respectively, into which he shall deposit all payments made by handlers pursuant to § 941.84 (including any adjustments thereto pursuant to § 941.88 (b) (1)); and out of which he shall make all payments to handlers pursuant to § 941.85 (including any adjustments thereto pursuant to § 941.88 (b) (2)). Immediately after computing the uniform prices for each delivery period, the market administrator shall compute the amount(s) by which each handler's net pool obligation(s) is greater or less than the sum obtained by multiplying such handler's producer milk by the applicable uniform price for Grade A milk or Grade B milk, subject to the location adjustment pursuant to § 941.81, and shall enter such amount(s) on such handler's account(s) as a pool debit or pool credit, as the case may be, and shall render such handler a transcript(s) of his account(s).

§ 941.84 *Payments to the producer-settlement funds.* On or before the 16th day after the end of each delivery period, each handler shall make full payment to the market administrator for deposit in the appropriate producer-settlement fund of any pool debit balance(s) shown on the account(s) rendered, pursuant to § 941.83, for such delivery period.

§ 941.85 *Payments out of the producer-settlement funds.* On or before the 17th day after the end of each delivery period, the market administrator shall pay to each handler from the appropriate producer-settlement fund the pool credit balance(s) shown on the account(s) rendered, pursuant to § 941.83, for such delivery period, less any unpaid obligations of the handler, pursuant to §§ 941.84, 941.86, 941.87 (a), and 941.88 (b) (1). If at such time the balance(s) in the appropriate producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler, who, on the 18th day of the month, has not received such payments in full from the market administrator shall not be deemed to be in violation of § 941.80 (b), if he reduces his total payments for milk delivered by producers during the preceding delivery period by not more than the reduction in payment from the producer-settlement fund; however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to § 941.80 (b) next following that on which such balance of payment was received from the market administrator.

§ 941.86 *Expense of administration.* As his prorata share of the expense of administration hereof each handler shall pay to the market administrator, on or before the 18th day after the end of each delivery period, an amount not exceeding 2¢ per hundredweight as the Secretary may prescribe, with respect to all milk received by him during such delivery period from producers, from his own farm production, and as other source milk allocated to Class I milk and Class II milk pursuant to § 941.45 (f), (g), and (h): *Provided,* That each handler which is a cooperative association shall pay such prorata share of expense of administration only on that milk of producers actually received at a pool plant of such cooperative association or caused to be delivered by such cooperative association to an unregulated plant.

§ 941.87 *Marketing services.* (a) In making payments to producers pursuant to § 941.80 (b), each handler, with respect to all milk received from each producer during each delivery period, at a plant not operated by a cooperative association of which such producer is a member, shall, except as set forth in paragraph (b) of this section, deduct an amount not exceeding 3 cents per hundredweight as the Secretary may prescribe, and shall, on or before the 18th day after the end of such delivery period, pay such deductions to the market administrator. Such monies shall be expended by the market administrator for verification of weights, samples, and tests of milk received from such producers and in providing for market information to such producers. The market administrator may contract with an association or associations of producers for the furnishing of the whole or any part of such services to, or with respect to, the milk received from such producers.

(b) In the case of producers whose milk is received at a plant not operated by a cooperative association of which such producers are members and for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall, in lieu of the deductions specified in paragraph (a) of this section, make such deductions from payments

made pursuant to § 941.80 (b) as may be authorized by such producers, and pay over on or before the 18th day after the end of each delivery period such deductions to the associations rendering such service of which such producers are members.

§ 941.88 *Adjustment of accounts.* (a) Whenever audit by the market administrator of any handler's reports, records, or accounts discloses adjustments to be made, for any reason, which result in monies due (1) the market administrator from such handler, (2) such handler from the market administrator, or (3) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due.

(b) Payments resulting from adjustments pursuant to (a) of this section shall be made on or before the next date for making payments to producers following notification by the market administrator or within 5 days following notification by the market administrator if payment is due (1) the market administrator from a handler, (2) a handler from the market administrator, or (3) any cooperative association which is a handler from another handler.

§ 941.89 *Termination of obligation.* The provisions of this section shall apply to any obligation under this part for the payment of money irrespective of when such obligation arose, except an obligation involved in an action instituted prior to August 1, 1949, under section 9c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representative all books and records required by this order to be made available, the market administrator may, within the two year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION OF ORDER

§ 941.90 *Effective time.* The provisions of this part, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended, or terminated, pursuant to § 941.91.

§ 941.91 *Suspension or termination.* The Secretary may suspend or terminate this part or any provision hereof whenever he finds that this part or any provision hereof obstructs or does not tend to effectuate the declared policy of the act. This part shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 941.92 *Continuing power and duty of the market administrator.* If upon the suspension or termination of any or all provisions of this part, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(a) The market administrator, or such other person as the Secretary may designate, shall:

(1) Continue in such capacity until removed by the Secretary;

(2) From time to time account for all receipts and disbursements, and when so directed by the Secretary deliver all funds on hand ,together with the books and records of the market administrator or such person, to such person, as the Secretary shall direct; and

(3) If so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 941.93 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this part, the market administrator, or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 941.100 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States, or name any bureau or division of the United States Department of Agriculture to act as his agent or representative in connection with any of the provisions of this part.

Filed at Washington, D. C., this 27th day of April 1951.

Dated: April 27, 1951, in Washington, D. C.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator.

[F. R. Doc. 51-5068; Filed, May 1, 1951; 8:54 a. m.]

[7 CFR, Part 988]

[Docket No. AO-195-A3]

HANDLING OF MILK IN KNOXVILLE, TENN., MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT, AND TO ORDER, AS AMENDED

Correction

In Federal Register Doc. 51-3906, published at page 2852 of the issue for Saturday, March 31, 1951, the fourth sentence in the fourth paragraph of paragraph 2 of Findings and Conclusions should read as follows: "Producers proposed that the factor 1.2 used in determining the Class II butterfat differential be reduced to 1.12 during the months of March through August and 10 cents per hundredweight added to the Class II price during other months of the year."

SECURITIES AND EXCHANGE COMMISSION

[17 CFR, Part 230]

PREPARATION AND FILING OF REGISTRATION STATEMENTS

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Securities and Exchange Commission has under consideration proposals for the amendment of the following rules under the Securities Act of 1933 dealing with the preparation and filing of registration statements.

I. It is proposed to amend paragraph (b) of § 230.402 so as to provide that where a registration statement is typewritten, one of the signed copies filed with the Commission shall be the original "ribbon" copy. The rule as so amended would read as follows:

§ 230.402 *Number of copies; binding; signatures.* (a) Three copies of the complete registration statement, including exhibits and all other papers and documents filed as a part of the statement, shall be filed with the Commission. Each copy of the registration statement so filed shall be bound, in one or more parts, without stiff covers. The binding shall be made on the left-hand side and in such manner as to leave the reading matter legible.

(b) At least one copy of every registration statement filed with the principal office of the Commission and two copies of every statement filed with a regional office pursuant to § 230.455 (b) shall be manually signed by the persons specified in section 6 (a) of the act. If the registration statement is typewritten, one of the signed copies filed shall be the original "ribbon" copy. Unsigned copies shall be conformed.

(c) If any name is signed to the registration statement pursuant to a power of attorney, copies of such power of attorney shall be filed with the registration statement. In addition, if the name of any officer signing on behalf of the registrant is signed pursuant to a power of attorney, certified copies of a resolution of the registrant's board of directors authorizing such signature shall also be filed with the registration statement.

II. Section 230.403 (Rule 403), as presently in effect, requires that registration statements shall be printed, mimeographed or typewritten. It is proposed to amend paragraph (b) so as to permit statements to be lithographed or prepared by other processes which, in the opinion of the Commission, produce copies of the requisite clarity and permanence. This paragraph would also be amended to make it clear that photocopies of material will not be accepted for filing except where strict adherence to such requirement would cause hardship. The rule as so amended would read as follows:

§ 230.403 *Requirements as to paper, printing and language.* (a) Registration statements shall be filed on good quality, unglazed, white paper 8½ x 13 inches in size, insofar as practicable. However, tables, charts, maps and financial statements may be on larger paper if folded to that size, and the prospectus may be on smaller paper if the registrant so desires.

(b) The registration statement and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed or typewritten. However, the statement or any portion thereof may be prepared by any similar process which, in the opinion of the Commission, produces copies suitable for a permanent record. Irrespective of the process used, all copies of any such material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Photocopies of material will not be accepted for filing except upon a showing that refusal to accept such photocopies would cause undue effort or expense.

(c) The registration statement proper shall be in the English language. If any exhibit or other paper or document filed with the registration statement is in a foreign language, it shall be accompanied by a translation into the English language.

III. Section 230.420 (Rule 420) provides that the body of all printed prospectuses, except for the financial data, shall be in type at least as legible as ten-point leaded type. It is proposed to amend the rule so as to make it clear that ten-point roman type is the minimum size of type which may be used and that such type must be at least two points leaded. The rule as so amended would read as follows:

§ 230.420 *Legibility of prospectuses.* The body of all printed prospectuses shall be in roman type at least as large as ten-point type and at least two points leaded. However, to the extent necessary for convenient presentation, financial statements and notes may be in roman type at least as large as eight-point type, at least two points leaded.

IV. Sections 230.425 and 230.426 (Rules 425 and 426) require certain statements to be set forth in the prospectus in capital letters in type at least as legible as ten-point boldface leaded type. It is proposed to amend these rules so as to make it clear that the required statements are to be in boldface roman type at least as large as ten point type and at least two points leaded. The rules as so amended would read as follows:

§ 230.425 *Statement required in all prospectuses.* There shall be set forth on the outside front cover page of every prospectus the following statement in capital letters printed in boldface roman type at least as large as ten-point type and at least two points leaded:

These securities have not been approved or disapproved by the Securities and Exchange Commission nor has the Commission passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.

§ 230.426 *Statement as to stabilizing.* If the registrant or any of the underwriters knows or has reasonable grounds to believe that the price of any security may be stabilized to facilitate the offering of the registered securities, there shall be set forth, either on the outside front cover page or on the inside front cover page of the prospectus, a statement in substantially the following form, subject to appropriate modifications where circumstances require. Such statement shall be in capital letters, printed in boldface roman type at least as large as ten-point type and at least two points leaded.

In connection with this offering, the underwriters may effect transactions which stabilize or maintain the market price of (identify each class of securities in which such transactions may be effected) at a level above that which might otherwise prevail in the open market. Such transactions may be effected on (identify each exchange on which stabilizing transactions may be effected. If none, omit this sentence). Such stabilizing, if commenced, may be discontinued at any time.

All interested persons are invited to submit data, views and comments on the above-mentioned proposals, in writing, to the Securities and Exchange Commission at its principal office, 425 Second Street NW., Washington 5, D. C., on or before May 24, 1951.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

APRIL 20, 1951.

[F. R. Doc. 51-5030; Filed, May 1, 1951; 8:47 a. m.]

[17 CFR, Part 240]

REGISTRATION AND REPORTING

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Securities and Exchange Commission has under consideration proposals to amend the following rules under the Securities Exchange Act of 1934 dealing with the preparation and filing of applications and reports under that act:

I. Section 240.12b-11 (Rule X-12B-11) would be amended to require only three copies of applications and reports to be filed with the Commission unless additional copies are required by the instructions contained in the particular form. The existing rules require four copies of all such material to be filed with the Commission. The rule as so amended would read as follows:

§ 240.12b-11 *Number of copies; signatures; binding.* (a) Except as provided in a particular form, three complete copies of each application or report, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Commission. At least one complete copy of each application shall be filed with each exchange on which the securities covered thereby are being registered. At least one complete copy of each report under section 13 of the act shall be filed with each exchange on which the registrant has securities listed and registered.

(b) At least one copy of the application or report filed with the Commission and one copy thereof filed with each exchange shall be manually signed in the

manner prescribed by the appropriate form. If the application or report is typewritten, one of the signed copies filed with the Commission shall be the original "ribbon" copy. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the application or report.

(c) Each copy of an application or report filed with the Commission or with an exchange shall be bound in one or more parts. Copies filed with the Commission shall be bound without stiff covers. The application or report shall be bound on the left side in such manner as to leave the reading matter legible.

II. Section 240.12b–12 (Rule X-12B–12) at present requires applications and reports to be printed, mimeographed or typewritten. It is proposed to amend the rule so as to permit them to be lithographed or prepared by any similar process which produces copies of the requisite clarity and permanence. Further amendments would make clear that photocopies of material ordinarily will not be accepted for filing and would clarify the requirements with respect to the size of type to be used. The rule as so amended would read as follows:

§ 240.12b–12 *Requirements as to paper, printing and language.* (a) Applications and reports shall be filed on good quality, unglazed, white paper 8½ x 13 inches in size, insofar as practicable. However, tables, charts, maps and financial statements may be on larger paper if folded to that size.

(b) The application or report and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed or typewritten. However, the application or report or any portion thereof may be prepared by any similar process which, in the opinion of the Commission, produces copies suitable for a permanent record. Irrespective of the process used, all copies of any such material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Photocopies of material will not be accepted for filing except upon a showing that refusal to accept such photocopies would cause undue effort or expense.

(c) The body of all printed applications and reports shall be in roman type at least as large as ten-point type and at least two points leaded. However, to the extent necessary for convenient presentation, financial statements and notes may be in type at least as large as eight-point type, at least two point leaded.

(d) Applications and reports shall be in the English language. If any exhibit or other paper or document filed with an application or report is in a foreign language, it shall be accompanied by a translation into the English language.

III. Sections 240.13a–13 and 240.15d–13 (Rules X-13A–13 and X-15D–13), which relate to the filing of quarterly reports of gross sales and operating revenues, would be amended so as to make it clear that such reports are required to be filed by title insurance companies. They now provide that such quarterly reports need not be filed by an "insurance company". This language would be changed to read any "insurance company (other than title insurance companies)". The rules as so amended would read as follows:

§ 240.13a–13 *Quarterly reports of other companies.* (a) Every issuer which has securities listed and registered on a national securities exchange and which is required to file annual reports on Form 10–K (17 CFR 249.310) or U5S (17 CFR 259.5s) or to file a report on one of such forms as Part II of Form 16–K (17 CFR 249.316), shall file a quarterly report on Form 9–K (17 CFR 249.309) for each fiscal quarter ending after the close of the latest fiscal year for which financial statements were filed in the issuer's application for registration.

(b) Such reports shall be filed not more than 45 days after the end of the fiscal quarter for which they are filed. However, the report for any fiscal quarter ending prior to the date on which securities of the issuer first become effectively registered on a national securities exchange may be filed not more than 45 days after the effective date of such registration.

(c) This section shall not apply to any bank, bank holding company, insurance company (other than title insurance companies), investment company, common carrier, public utility company, or any company primarily engaged in the production and sale of a seasonal, single-crop agricultural commodity.

§ 240.15d–13 *Quarterly reports of other companies.* (a) Every issuer which is required to file annual reports on Form 10–K (17 CFR 249.310) or U5S (17 CFR 259.5s) shall file a quarterly report on Form 9–K (17 CFR 249.309) for each fiscal quarter ending after the close of the latest fiscal year for which financial statements were included in the issuer's registration statement.

(b) Such reports shall be filed not more than 45 days after the end of the fiscal quarter for which they are filed. However, the report for any quarter ending prior to the effective date of the registration statement may, unless the issuer was subject to this section prior to such date, be filed not more than 45 days after the effective date of the registration statement.

(c) This section does not apply to foreign governments or political subdivisions thereof; foreign private issuers other than Canadian, Cuban, Mexican or Philippine issuers; issuers of American certificates against foreign issues; or to any bank, bank holding company, insurance company (other than title insurance companies), investment company, common carrier, public utility company, or any company primarily engaged in the production and sale of a seasonal-single-crop agricultural commodity.

All interested persons are invited to submit data, views and comments on the above-mentioned proposals, in writing, to the Securities and Exchange Commission at its principal office, 425 Second Street NW., Washington 25, D. C., on or before May 24, 1951.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

APRIL 20, 1951.

[F. R. Doc. 51–5031; Filed, May 1, 1951; 8:47 a. m.]

[17 CFR, Parts 240, 249]

FORMS

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Securities and Exchange Commission has under consideration the proposed amendment of the following forms under the Securities Exchange Act of 1934.

I. Item 15 of Form 8–K (17 CFR 249.308) would be amended so as to make it clear that registrants under the Securities Act of 1933 which are required to file reports on this form need keep up to date only those exhibits which are required to be kept up to date by a company having securities listed and registered on a national securities exchange.

The proposed amendment would also provide that where previously filed exhibits are amended or modified, copies of the entire exhibits as amended or modified shall be filed. The filing of entire exhibits as amended or modified is now permitted but not required.

The amended item would read as follows:

Item 15. *Exhibits.*

(a) If any exhibit previously filed has been materially amended or modified, identify such exhibit, state the general effect of the amendment or modification and file copies of the amended or modified exhibit with the report.

(b) If any document which would be required as an exhibit to an original application for registration of securities on an exchange has been executed or otherwise put into effect, identify the document and attach copies thereof as an exhibit to the report.

(c) If any contract or indenture, any bonus, profit-sharing or pension plan or any voting trust agreement previously filed has been terminated otherwise than in due course, identify the document and state the date and manner of its termination.

Instruction. Registrants filing reports pursuant to section 15 (d) of the act need not answer this item with respect to any document which would not be required as an exhibit to an original application for registration of securities on an exchange.

II. Form 10–K (17 CFR 249.310).

1. Under the existing requirements, a registrant is required to file with the Commission four copies of all applications and reports. It is proposed to amend the general instructions to Form 10–K so as to require the filing with the Commission of four copies only of reports on that form. Section 240.12b-11 (Rule X–12b–11) would be concurrently amended so as to require the filing with the Commission of only three copies of applications and reports other than those on Form 10–K. The amended in-

struction to Form 10–K would read as follows:

B. *Application of general rules and regulations.* (a) The general rules and regulations under the act contain certain general requirements which are applicable to reports on any form. These general requirements should be carefully read and observed in the preparation and filing of reports on this form.

(b) Particular attention is directed to Regulation X-12B which contains general requirements regarding matters such as the kind and size of paper to be used, the legibility of the report, the information to be given whenever the title of securities is required to be stated, and the filing of the report. The definitions contained in § 240.12b–2 should be especially noted.

(c) Four complete copies of each report on this form, including exhibits and all papers and documents filed as a part thereof, shall be filed with the Commission, except that only three copies of reports filed pursuant to General Instruction F need be filed with the Commission.

2. It is proposed to amend Instruction 7 of the instructions as to financial statements in Form 10–K to make it clear that financial statements filed for title insurance companies must be certified and, therefore, are not within the general provisions that the financial statements of insurance companies need not be certified. The proposed amendment would merely continue the requirement heretofore in effect with respect to the certification of financial statements of title insurance companies. The proposed amendment would read as follows:

7. *Statements of banks and insurance companies.* Notwithstanding the requirements of the foregoing instructions, financial statements filed for banks or insurance companies (other than title insurance companies) need not be certified.

3. It is proposed to amend the instructions as to exhibits in Form 10–K so as to make it clear that registrants under the Securities Act of 1933 which are required to file reports on this form need keep up to date only those exhibits which would be required as exhibits to an original application for registration of securities on a national securities exchange. The instructions as so amended would read as follows:

INSTRUCTIONS AS EXHIBITS

Subject to the rules regarding incorporation by reference, the following exhibits shall be filed as a part of the report:

(a) If any exhibit previously filed has been amended or modified, file copies of such exhibit as so amended or modified.

(b) File copies of any document not previously filed which would be required as an exhibit to an original application for registration of securities on an exchange.

Registrants filing reports pursuant to section 15 (d) of the act need not file copies of any document which would not be required as an exhibit to an original application for registration of securities on an exchange.

III. Form 10 (17 CFR 249.210).

It is proposed to amend Instruction 18 of the instructions as to financial statements in Form 10 to make it clear that financial statements filed for title insurance companies must be certified and, therefore, are not within the general provisions that financial statements of insurance companies need not be certified. The proposed amendment would merely continue the requirement heretofore in effect with respect to the certification of financial statements of title insurance companies. The proposed amendment would read as follows:

18. *Statements of banks and insurance companies.* Notwithstanding the requirements of the foregoing instructions, financial statements filed for banks or insurance companies (other than title insurance companies) need not be certified.

All interested persons are invited to submit data, views and comments on the above-mentioned proposals, in writing, to the Securities and Exchange Commission at its principal office, 425 Second Street, N. W., Washington 25, D. C., on or before May 24, 1951.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

APRIL 20, 1951.

[F. R. Doc. 51–5032; Filed, May 1, 1951; 8:47 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

SMALL TRACT CLASSIFICATION ORDER NO. 267, AMENDED

APRIL 20, 1951.

California Small Tract Classification Order No. 267, dated March 15, 1951 (16 F. R. 2811), is hereby amended to correct the complete description of the lands classified and to describe part of the land by Tracts in accordance with the supplemental plat of survey filed November 6, 1950, as follows, viz:

T. 9 N., R. 1 W., S. B. M.,
Sec. 7, S½NE¼, SE¼ and Tracts numbered 5 to 104, both inclusive (formerly Lots 2, 3 and 4)

Paragraph 6 of of the order is amended for the same reason as above to describe Lots 2 and 3, as Tracts numbered 5 to 84, both inclusive, and Lot 4 as Tracts numbered 85 to 104, both inclusive.

Paragraph 8 of the order is amended for the same reason as above to describe Lot 2 as Tracts numbered 5 to 44; Lot 3 as Tracts numbered 45 to 84; and Lot 4 as Tracts numbered 85 to 104, all inclusive.

J. H. FAVORITE,
Acting Regional Administrator.

[F. R. Doc. 51–5054; Filed, May 1, 1951; 8:51 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1068, as amended; 29 U. S. C. and Supp. 412), and Part 522 of the Regulations issued thereunder (29 CFR Part 522), special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 522. The effective and expiration dates, occupations, wage rates, number or proportion of learners, and learning period for certificates issued under the general learner regulations (§§ 522.1 to 522.14) are as indicated below; conditions provided in certificates issued under special industry regulations are as established in these regulations.

Single Pants, Shirts and Allied Garments, Women's Apparel, Sportswear and Other Odd Outerwear, Robes and Leather and Sheep-Lined Garments Divisions of the Apparel Industry Learner Regulations (29 CFR 522.160 to 522.166, as amended September 25, 1950; 15 F. R. 5701, 6326).

A. C. M. Corp., Winder, Ga., effective 4–19–51 to 4–18–52; 10 percent for normal labor turnover (men's and boys' pants).

Ajay Manufacturing Corp., 38 Francis Place, Keansburg, N. J., effective 4–16–51 to 4–15–52; six learners for normal labor turnover (children's dresses).

Alpha Manufacturing Co., 18 Front Street, Hammonton, N. J., effective 4–13–51 to 4–12–52; for normal labor turnover, 10 percent or 10 learners, whichever is greater (ladies' and misses' dresses).

Ethan Ames, Deane and Brock Streets, New Bedford, Mass., effective 4–13–51 to 4–12–52; 10 percent for normal labor turnover (boys' novelty clothing).

Angelica Uniform Co., Mountain View, Mo., effective 4–11–51 to 4–10–52; 10 percent for normal labor turnover (men's washable service apparel).

Angelica Uniform Co., Mountain View, Mo., effective 4–11–51 to 10–10–51; 15 learnerns for expansion purposes (men's washable service apparel).

Besco Shirt Co., Inc., 600 Fulton Street, Elizabeth, N. J., effective 4–10–51 to 4–9–52; 10 percent for normal labor turnover (men's dress shirts; Army shirts).

Blue Gem Manufacturing Plant, Asheboro, N. C., effective 4–26–51 to 10–25–51; 15 learners for expansion purposes (denim dungarees).

Bobby Dress Co., 1716 Main Street, Dickson, Pa., effective 4–13–51 to 4–12–52; 10 percent for normal labor turnover (ladies' dresses).

Brogan & Jennings Manufacturing Co., Kerene, Tex., effective 4–16–51 to 4–15–52; five learners for n ormal labor turnover (women's dresses, blouses, and sportswear).

Bruce Co., Inc., 120 East Fifteenth Street, Ottawa, Kans., effective 4–13–51 to 10–12–51;

10 learners for expansion purposes (men's work clothing).

Carbon Sportswear Co., Oak and Walnut Streets, Treschow, Pa., effective 4-19-51 to 4-18-52; 10 learners for normal labor turnover (blouses and dresses).

Carmella Dresses, Inc., 411 West Sixteenth Street, Hazleton, Pa., effective 4-18-51 to 4-17-52; for normal labor turnover, 10 percent or 10 learners, whichever is greater (women's dresses).

Choctaw Manufacturing Co., Inc., Silas, Ala., effective 4-13-51 to 4-12-52; 10 learners for normal labor turnover (dungarees and work pants).

Choctaw Manufacturing Co., Inc., Silas, Ala., effective 4-13-51 to 10-12-51; 20 learners for expansion purposes (dungarees and work pants).

Elder Manufacturing Co., Bloomfield, Mo., effective 4-11-51 to 4-10-52; 10 percent for normal labor turnover (boys' wearing apparel).

The Emerson Co., 1304 Arch Street, Philadelphia, Pa., effective 4-17-51 to 4-16-52; five learners for normal labor turnover. (Nurses' and maids' uniforms).

Louis Giordana & Louis Bisigrani, 666 Sanderson Street, Throop, Pa., effective 4-10-51 to 10-9-51; 25 learners for expansion purposes (men's and boys' trousers).

Harvic Manufacturing Co., Inc., Sweet Valley, Pa., effective 4-19-51 to 4-18-52; 10 learners for normal labor turnover (dresses).

Hollywood Garter Belt Co., (Hollywood Maxwell Co.) 24 West Fifth South Street, Salt Lake City, Utah, effective 4-13-51 to 4-12-52; 10 learners for normal labor turnover (brassieres and garter belts).

Irene Manufacturing Co., 648 North Damen Avenue, Chicago, Ill., effective 4-13-51 to 4-12-52; three learners for normal labor turnover (cotton dresses).

Irene Sportswear Co., Inc., Main Street, Nicholas, Pa., effective 4-13-51 to 10-12-51; 16 learners for expansion purposes (blouses).

Rose Jay Dress Co., Inc., Main Street, Stanhope, N. J., effective 4-11-51 to 4-10-52; for normal labor turnover, 10 percent or 10 learners, whichever is greater (women's dresses).

The Joanie Jan Co., Walnut Ridge, Ark., effective 4-13-51 to 10-12-51; 86 learners for expansion purposes only (wash frocks).

The Joanie Jan Co., Walnut Ridge, Ark., effective 4-13-51 to 4-12-52; 10 learners for normal labor turnover (wash frocks).

Charles Komaw & Sons, 259 North Stevens Avenue, South Amboy, N. J., effective 4-16-51 to 4-15-52; 10 percent normal labor turnover (ladies' slips of woven fabric).

Lineville Manufacturing Co., Lineville, Ala., effective 4-11-51 to 4-10-52; 10 percent for normal labor turnover (men's and boys' pants).

Leeta Mae Corp., 79 Essex Street, Boston, Mass., effective 4-16-51 to 10-15-51; 26 learners for expansion purposes (ladies' blouses and dresses).

Mar-Ann Dress Co., Inc., 120 North State Street, Ephrata, Pa., effective 4-12-51 to 4-11-52; 10 learners for normal labor turnover.

Marie's Dress Shop, 62 Franklin Street, New Haven, Conn., effective 4-19-51 to 4-18-52; four learners for normal labor turnover (ladies' dresses and skirts).

Mauston Manufacturing Co., 424 East La Crosse Street, Mauston, Wis., effective 4-11-51 to 4-10-52; 10 percent for normal labor turnover (ladies' and children's cotton dresses).

Arthur Moak Dress Co., 144 Hazle Street, Wilkes-Barre, Pa., effective 4-13-51 to 4-12-52; six learners for normal labor turnover (women's dresses, blouses, and children's wear).

Mode O'Day Corp., Plant No. 9, 419 East South Street, Hastings, Nebr., effective 4-19-51 to 4-18-52; 10 learners for normal labor turnover (ladies' blouses).

Mode O'Day Corp., Plant No. 9, 419 East South Street, Hastings, Nebr., effective 4-19-51 to 10-18-51; 10 learners for expansion purposes (ladies' blouses).

S. Mover & Son, Inc., 33 Harrison Avenue, Boston, Mass., effective 4-11-51 to 4-10-52; 10 percent for normal labor turnover (ladies' blouses).

Nelly Ann Dress Co., Inc., 546 Edgar Street, York, Pa., effective 4-16-51 to 4-15-52; for normal labor turnover, 10 percent or 10 learners, whichever is greater (ladies' dresses).

Nickels Manufacturing Co., 617 Broad Street, Bristol, Tenn., effective 4-13-51 to 4-12-52; 10 percent for normal labor turnover (women's dresses).

O'Connell Sportswear, 117 Main Street, Dalton, Pa., effective 4-13-51 to 4-12-52; eight learners for normal labor turnover (blouses).

Pacific Undergarment Co., Inc., 283 Plymouth Avenue, Fall River, Mass., effective 4-13-51 to 4-12-52; 10 percent for normal labor turnover (ladies' nightwear).

Sacony of Pageland, Inc., Pageland, S. C., effective 4-18-51 to 4-17-52; 10 percent for normal labor turnover (women's sportswear).

I. Schneierson & Sons, Inc., Siler City, N. C., effective 4-12-51 to 4-11-52; for normal labor turnover, 10 percent or 10 learners, whichever is greater (women's and children's slips).

I. Schneierson & Sons, Inc., Siler City, N. C., effective 4-12-51 to 10-11-51; 20 learners for expansion purposes (women's and children's slips).

Shenan Dress Corp., Washington and Bower Streets, Shenandoah, Pa., effective 4-19-51 to 4-18-52; 10 percent for normal labor turnover (ladies' and misses' dresses).

Silverstine Garment Co., Inc., 36 South Throop, Chicago, Ill., effective 4-13-51 to 10-12-51; 10 learners for expansion purposes (women's housecoats, brunchcoats, and sun back dresses).

Silverstine Garment Co., Inc., 36 South Throop, Chicago, Ill., effective 4-13-51 to 4-12-52; 10 percent for normal labor turnover (women's housecoats, brunchcoats and sun back dresses).

Southern Manufacturing Co., 1202 Broad Street, Nashville, Tenn., effective 4-11-51 to 4-10-52; 10 percent for normal labor turnover (men's and boys' sport shirts).

The Turner Manufacturing Co., 107 Twelfth Avenue North, Nashville, Tenn., effective 4-16-51 to 4-15-52; for normal labor turnover, 10 percent or 10 learners, whichever is greater (sport shirts).

Vidalia Garment Co., Vidalia, Ga., effective 4-11-51 to 4-10-52; 10 percent for normal labor turnover (men's and boys' sport shirts).

Vidalia Garment Co., Vadalia, Ga., effective 4-11-51 to 10-10-51; 20 learners for expansion purposes (men's and boys' sport shirts).

Womble-Campbell Manufacturing Co., 117 West Second, Hereford, Tex., effective 4-12-51 to 10-11-51; 12 learners for expansion purposes (women's and children's cotton and rayon lingerie).

J. M. Wood Manufacturing Co., Inc., 224-26 South Sixth Street, Waco, Tex., effective 4-17-51 to 10-16-51; 10 learners for expansion purposes (women's and children's cotton and rayon lingerie).

Wilson Manufacturing Co., Amory, Miss., effective 4-17-51 to 4-16-52; 10 percent for normal labor turnover (men's dress pants).

Cigar Industry Learner Regulations (29 CFR 522.201 to 522.211, as amended January 25, 1950; 15 F. R. 400).

Amb-A-Tip Cigar Co., Inc., Manchester, Md., effective 4-10-51 to 10-9-51; 12 learners for expansion purposes only, to be employed in the following occupations: cigar machine operating 320 hours, machine stripping 160 hours, packing cigars retailing for 6 cents and less, 180 hours, and packing cigars retailing for more than 6 cents, 320 hours; 60 cents per hour.

General Cigar Co., Inc., Division and Brook Streets, Kingston, Pa., effective 4-10-51 to 10-9-51; 132 learners for expansion purposes only, to be employed in the following occupations: cigar machine operating 320 hours, packing cigars retailing for more than 6 cents each 320 hours, and machine stripping 160 hours; 60 cents per hour.

Knitted Wear Industry Learner Regulations (29 CFR 522.69 to 522.79, as amended January 25, 1950; 15 F. R. 398).

Allendale Mills, Inc., Mount Airy, N. C., effective 4-20-51 to 4-19-52; five learners for normal labor turnover.

Allendale Mills, Inc., Mount Airy, N. C., effective 4-20-51 to 10-19-51; five learners for expansion purposes (supplemental certificate).

The Bernhard Altmann Texas Corp., 400 Centennial Boulevard, San Antonio, Tex., effective 4-12-51 to 4-11-52; 5 percent for normal labor turnover.

The Bernhard Altmann Texas Corp., 400 Centennial Boulevard, San Antonio, Tex., effective 4-12-51 to 10-11-51; 30 learners for expansion purposes.

The Atlas Underwear Co., Richmond, Ind., effective 4-12-51 to 10-11-51; 12 learners for expansion purposes.

The Atlas Underwear Co., Richmond, Ind., effective 4-12-51 to 4-11-52; 5 percent for normal labor turnover.

Kessler Undies and Woolies Co., 145 Main Street, Wayland, Mich., effective 4-12-51 to 10-11-51; eight learners for expansion purposes.

Marvin Manufacturing Co., 61 South Pennsylvania Avenue, Wilkes-Barre, Pa., effective 4-13-51 to 10-12-51; 35 learners for expansion purposes only.

Union Underwear Co., Inc., Bowling Green, Ky., effective 4-10-51 to 4-9-52; 5 percent for normal labor turnover.

Puerto Rico: The following special learner certificate was issued in Puerto Rico to the company hereinafter named. The effective and expiring dates, the number of learners, the learner occupations, the length of the learning period and the learner wage rate are indicated, respectively.

Puerto Rico Textiles, Inc., Ponce, P. R., effective 4-2-51 to 7-2-51; 40 learners to be employed in the occupation of pinning and printing; 180 hours; 24 cents per hour (screen printing of textiles).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.14).

Bainbridge Furniture Corp., Army Air Base, Bainbridge, Ga., effective 4-16-51 to 10-15-51; 15 learners for expansion purposes; upholstering and woodworking, each 300 hours; 60 cents per hour (upholstered furniture).

The Fotolith Corp., 1111 South St. Mary's Street, San Antonio, Tex., effective 4-16-51 to 10-13-51; two learners for normal labor turnover; photolithographer and varitypographer, each 480 hours; 60 cents per hour for the first 320 hours and 65 cents per hour for remaining 160 hours (printing equipment).

Jack Land, 1 South Eutaw Street, Baltimore, Md., effective 4-13-51 to 4-12-52; five learners for normal labor turnover; machine operators and trimmers, and hand sewers each 240 hours; 65 cents per hour (ladies' hats).

The Lobl Manufacturing Co., Cambridge Street, Middleboro, Mass., effective 4-20-51 to 10-19-51; 10 learners for normal labor turnover; electrical assemblers 400 hours; 60 cents per hour for first 300 hours and 65 cents per hour for remaining 100 hours (icebags and electric heating pads).

Modern Coat Shop, Inc., Twenty-sixth and Reed Streets, Philadelphia, Pa., effective 4-16-51 to 4-15-52; 7 percent for normal labor turnover; machine operators, handsewers,

and pressers each 480 hours; 60 cents per hour for first 240 hours and 65 cents per hour for remaining 240 hours (topcoats and overcoats).

Richards and Associates, Fort Myers, Fla., effective 4-20-51 to 10-19-51; 15 learners for normal labor turnover; sewing machine operator 480 hours; 60 cents per hour for first 320 hours and 65 cents per hour for remaining 160 hours (plastic film).

Each certificate has been issued upon the employer's representation that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be cancelled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of Part 522.

Signed at Washington, D. C., this 24th day of April 1951.

VERL E. ROBERTS,
Authorized Representative of the Administrator.

[F. R. Doc. 51-5019; Filed, May 1, 1951; 8:45 a. m.]

DEPARTMENT OF THE TREASURY

Fiscal Service, Bureau of Accounts

[Dept. Circ. 570, Rev. Apr. 20, 1943, 1951, 53d Supp.]

CONNECTICUT INDEMNITY CO.

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

APRIL 25, 1951.

A Certificate of Authority has been issued by the Secretary of the Treasury to the above company under the act of Congress approved July 30, 1947 (6 U. S. C. secs. 6-13), as an acceptable surety on Federal bonds. An underwriting limitation of $492,000.00 has been established for the company. Further details as to the extent and localities with respect to which the company is acceptable as surety on Federal bonds will appear in the next issue of Treasury Department Form 356, copies of which, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Section of Surety Bonds, Washington 25, D. C.

[SEAL] E. H. FOLEY,
Acting Secretary of the Treasury.

[F. R. Doc. 51-5063; Filed, May 1, 1951; 8:52 a. m.]

[Dept. Circ. 570, Rev. Apr. 20, 1943, 1951, 52d Supp.]

SECURITY INSURANCE CO. OF NEW HAVEN

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

APRIL 25, 1951.

A Certificate of Authority has been issued by the Secretary of the Treasury to the above company under the act of Congress approved July 30, 1947 (6 U. S. C. secs. 6-13), as an acceptable surety on Federal bonds. An underwriting limitation of $947,000.00 has been established for the company. Further details as to the extent and localities with respect to which the company is acceptable as surety on Federal bonds will appear in the next issue of Treasury Department Form 356, copies of which, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Section of Surety Bonds, Washington 25, D. C.

[SEAL] E. H. FOLEY,
Acting Secretary of the Treasury.

[F. R. Doc. 51-5065; Filed, May 1, 1951; 8:53 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-1668]

SOUTHERN UNION GAS CO.

NOTICE OF APPLICATION

APRIL 26, 1951.

Take notice that Southern Union Gas Company (Applicant) a Delaware corporation having its principal office at 1104 Burt Building, Dallas, Texas, filed on April 17, 1951, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act authorizing the construction and operation of the facilities hereinafter described.

Applicant proposes to construct and operate a 300 hp. Compressor Station at a point immediately east of Clovis, New Mexico on its existing natural gas transportation line extending from Clovis to Tucumcari, New Mexico.

Applicant further proposes to construct and operate a new 8⅝" natural gas transportation pipeline, said line to be approximately 10 miles in length and to loop that portion of Applicant's existing 5½" pipeline extending from Clovis to Portales, New Mexico.

The purpose of the proposed construction and operation is to increase Applicant's capacity to deliver natural gas to its customers in its Clovis, New Mexico District.

The cost of the proposed new facilities is estimated to be $202,240.00.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with its rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 15th day of May 1951. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-5020; Filed, May 1, 1951; 8:45 a. m.]

GENERAL SERVICES ADMINISTRATION

SECRETARY OF DEFENSE

DELEGATION OF AUTHORITY WITH RESPECT TO SHOW CAUSE ORDER ISSUED BY CALIFORNIA PUBLIC UTILITIES COMMISSION

Order to show cause in re the present and potential demands for and availability of natural gas in California, and the need for and propriety of emergency modification of current rules or practices to facilitate the supplying of natural gas service.

1. Pursuant to the provisions of sections 201 (a) (4) and 205 (d) and (e) of the Federal Property and Administrative Services Act of 1949, Public Law 152, 81st Congress, authority to represent the interests of the executive agencies of the Federal Government and to appear as witnesses and counsel for the executive agencies of the Federal Government in the matter of show cause order issued by the California Public Utilities Commission in connection with natural gas in California is hereby delegated to the Secretary of Defense.

2. The Secretary of Defense is hereby authorized to redelegate any of the authority contained herein to any officer, official or employee of the Department of Defense.

3. The authority conferred herein shall be exercised in accordance with the policies, procedures and controls prescribed by the General Services Administration and shall further be exercised in cooperation with the responsible officers, officials and employees of such Administration.

4. This delegation of authority shall be effective as of the date hereof.

Dated: April 26, 1951.

JESS LARSON,
Administrator.

[F. R. Doc. 51-5069; Filed, May 1, 1951; 8:54 a. m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

COMMISSIONER OF FEDERAL HOUSING ADMINISTRATION AND HIS DESIGNEES

DELEGATION OF AUTHORITY WITH RESPECT TO PERFORMING FUNCTIONS IN CONNECTION WITH CR 3

The Federal Housing Commissioner and such persons as he shall designate in the Federal Housing Administration are hereby authorized to process, approve, withhold approval, or reject, in accordance with the provisions of HHFA Regulation CR 3, 16 F. R. 3835, *supra*, applications for exceptions from residential credit restrictions submitted to the local offices of the Federal Housing Administration pursuant to that regulation.

(62 Stat. 1268, 1283-85 (1948), 12 U. S. C. 1701c (Supp. 1949), as amended, Pub. Law 475, 81st Cong., 2d sess., sec. 503 (1) (Apr. 20, 1950); Titles VI and VII, Pub. Law 774, 81st Cong., 64 Stat. 812-822; secs. 501, 502 and 902, E. O. 10161, Sept. 9, 1950, 15 F. R. 6106; sec. 6 (p), Reg. X, as amended, 15 F. R. 6817, 7831 (1950); 16 F. R. 308, 1586, 2078, 2575, 2969 (1951); HHFA CR 3, May 2, 1951, 16 F. R. 3835)

Effective as of the 2d day of May 1951.

RAYMOND M. FOLEY,
Housing and Home Finance Administrator.

[F. R. Doc. 51-5127; Filed, May 1, 1951; 12:00 m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 26051]

FINE COAL FROM ILLINOIS AND INDIANA TO HUMBOLDT, IOWA

APPLICATION FOR RELIEF

APRIL 27, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. G. Raasch, Agent, for carriers parties to the tariffs shown on the attached list.

Commodities involved: Bituminous coal which has passed through a bar screen not exceeding one and one-half inches between bars or its equivalent, carloads.

From: Points in Illinois and Indiana.

To: Humboldt, Iowa.

Grounds for relief: Circuitous routes, market competition, and to maintain grouping.

Schedules filed containing proposed rates:

	Tariff I. C. C. No.	Supp. No.
AT&SF	14324	45
B&O	WL-10709	142
C&EI	2	131
C&IM	B-336	5
CB&Q	19670	181
CI&L	4798	5
CMStP&P	B-7246	97
M&StL	2	56
MP	A-10201	7
NYC	164	296
PRR	2759	85
Wabash	7460	95

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-5043; Filed, May 1, 1951; 8:49 a. m.]

[4th Sec. Application 26053]

GRAIN FROM WESTERN TRUNK-LINE, ILLINOIS AND SOUTHWESTERN TERRITORIES TO BATON ROUGE, LA.

APPLICATION FOR RELIEF

APRIL 27, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for carriers parties to the tariffs shown on the attached list.

Commodities involved: Grain, grain products and related articles, carloads.

From: Western trunk-line, Illinois and southwestern territories.

To: Baton Rouge, La.

Grounds for relief: Competition with rail carriers, circuitous routes, and to maintain grouping.

Schedules filed containing proposed rates:

	Tariff I. C. C. No.	Supp. No.
C&NW	11153	9
CB&Q	20186	12
	20296	5
	20167	14
CGW	5605	4
CMStP&P	B-7626	8
CRI&P	C-13346	18
	C-13415	
IC	A-11542	12
KCS	5303	
Mo. Pac	A-10020	17
	A-10223	
	A-10224	
StL-SF	A-185	24
	A-186	17
StLSW	5684	2
U. P	5130	18
Wabash	7548	26
	7589	3

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-5045; Filed, May 1, 1951; 8:50 a. m.]

[4th Sec. Application 26052]

GRAIN FROM CERTAIN POINTS TO TEXAS POINTS

APPLICATION FOR RELIEF

APRIL 27, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for the Fort Worth and Denver City Railway Company and other carriers named in the application.

Commodities involved: Grain, grain products and related articles, carloads.

From: Arkansas, Colorado, Illinois, Kansas, Missouri, Nebraska, Oklahoma, and Memphis, Tenn.

To: Points in Texas.

Grounds for relief: Competition with rail carriers, circuitous routes, and to maintain grouping.

Schedules filed containing proposed rates: D. Q. Marsh's tariff I. C. C. No. 3941, Supp. 11.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-5044 Filed, May 1, 1951; 8:50 a. m.]

[4th Sec. Application 26054]

GLASSWARE FROM WICHITA FALLS, TEX., TO DENVER

APPLICATION FOR RELIEF

APRIL 27, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for carriers parties to his tariff I. C. C. No. 3886.

Commodities involved: Glassware, in carloads.

From: Wichita Falls, Tex.

To: Denver, Colo.

Grounds for relief: Circuitous routes.

Schedules filed containing proposed rates: D. Q. Marsh's tariff I. C. C. No. 3886, Supp. 38.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day pe-

riod, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-5046; Filed May 1, 1951; 8:50 a. m.]

[4th Sec. Application 26055]

SULPHURIC ACID FROM DUBUQUE TO SIOUX CITY, IOWA

APPLICATION FOR RELIEF

APRIL 27, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: L. E. Kipp, Agent, for the Chicago, Burlington & Quincy Railroad Company.

Commodities involved: Sulphuric acid, in tank-car loads.

From: Dubuque, Iowa.

To: Sioux City, Iowa.

Grounds for relief: Circuitous routes and to meet intrastate rates.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-5047; Filed, May 1, 1951; 8:50 a. m.]

[Rev. S. O. 874, Rev. General Permit 3]

CONDENSED BUTTERMILK FEEDS

LOADING REQUIREMENTS

Pursuant to the authority vested in me in paragraph (d) of Revised Service Order No. 874 (16 F. R. 2040, 3133), permission is granted for any common carrier by railroad, subject to the Interstate Commerce Act to disregard the provisions of Revised Service Order No. 874 insofar as they apply to any car loaded with Condensed Buttermilk Feeds in wooden barrels, steel pails, fibre drums, and corrugated boxes with pliofilm or polyethylene bags, because of the tendency of condensed buttermilk feeds to mold, cake, and become unsalable when exposed to air.

The waybills shall show reference to this revised general permit and any consignor forwarding cars under this revised general permit shall furnish the permit agent with the car numbers, initials, weights, and destinations of the cars shipped under this revised general permit, as well as the car numbers, initials, and weights of all cars loaded with Condensed Buttermilk Feeds shipped; such information to be furnished on the first day of each month.

This general permit shall become effective at 12:01 a. m., April 27, 1951, and shall expire at 11:59 p. m., September 15, 1951, unless otherwise modified, changed, suspended, or revoked.

A copy of this general permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement, and notice of this permit shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 25th day of April 1951.

HOWARD S. KLINE, *Permit Agent.*

[F. R. Doc. 51-5048; Filed, May 1, 1951; 8:50 a. m.]

[Rev. S. O. 874, Corrected General Permit 18]

EVANS MILLING CO. AND DECATUR MILLING CO.

LOADING REQUIREMENTS

Pursuant to the authority vested in me in paragraph (d) of Revised Service Order No. 874 (16 F. R. 2040, 3133), permission is granted for any common carrier by railroad, subject to the Interstate Commerce Act serving Evans Milling Company, Indianapolis, Indiana, and Decatur Milling Company, Decatur, Illinois, to disregard the provisions of Revised Service Order No. 874 insofar as it applies to corn grits, corn meal, and/or hominy feed in bulk when Evans Milling Company or Decatur Milling Company advise that service would be denied because of its inability to meet the minimum requirements because of inability of loading device to load to within 24 inches of roof of cars, except at ends of car. However, the total weight of such shipments shall be or exceed 80,000 pounds.

The waybills shall show reference to this general permit and Evans Milling Company or Decatur Milling Company shall furnish the permit agent the car numbers, initials, weights, and destinations of the cars shipped under this permit and also car numbers, initials, and weights of all cars loaded with corn grits, corn meal, and/or hominy feed in bulk shipped; such information to be furnished on the first of each month.

This general permit shall become effective at 12:01 a. m., April 27, 1951, and shall expire at 11:59 p. m., September 15, 1951, unless otherwise modified, changed, suspended or revoked.

A copy of this general permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement, and notice of this permit shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 25th day of April 1951.

HOWARD S. KLINE, *Permit Agent.*

[F. R. Doc. 51-5049; Filed, May 1, 1951; 8:50 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-2589]

WEST PENN ELECTRIC CO. AND MONONGAHELA POWER CO.

SUPPLEMENTAL ORDER GRANTING AND PERMITTING JOINT APPLICATION-DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 25th day of April 1951.

The West Penn Electric Company ("West Penn Electric"), a registered holding company, and its direct subsidiary, Monongahela Power Company ("Monongahela"), a public utility company and an exempt holding company, having filed a joint application-declaration, with amendments thereto, under the Public Utility Holding Company Act of 1935 ("act"), with respect to inter alia: (i) The issuance and sales by Monongahela, pursuant to the competitive bidding provisions of Rule U-50 under the act of $10,000,000 principal amount of its First Mortgage Bonds, __ Percent Series, due 1981, and (ii) the issuance and sale by Monongahela of 615,400 additional shares of its common stock and the purchase of such shares by West Penn Electric for a cash consideration of $4,000,100; and

The Commission having, by order dated April 16, 1951, granted and permitted to become effective said amended joint application-declaration except that the issuance and sale of said bonds were not to be consummated until the results of competitive bidding pursuant to Rule U-50 were made a matter of record in this proceeding and a further order issued, for which purpose jurisdiction was reserved; and

Jurisdiction also having been reserved in respect of all fees and expenses incurred in connection with the proposed transactions; and

Monongahela having filed a further amendment to the joint application-declaration in which it is stated that, in

accordance with the permission granted by the said order of the Commission dated April 16, 1951, it offered such bonds for sale pursuant to the competitive bidding requirements of Rule U-50 and received the following bids:

Bidding group headed by—	Annual interest rate (percent)	Price to company[1] (percent of principal)	Annual cost to company (percent)
Union Securities Corp. and Salomon Bros. & Hutzler	3⅜	101.085	3.317624
W. C. Langley & Co. and The First Boston Corp.	3⅜	100.6099	3.342647
Halsey, Stuart & Co., Inc.	3⅜	100.5151	3.347659
Kuhn, Loeb & Co.	3⅜	100.339	3.356986
Kidder, Peabody & Co. and White, Weld & Co.	3⅜	100.289	3.359636
Lehman Bros.	3⅜	100.2599	3.361178
Merrill Lynch, Pierce, Fenner & Beane	3⅜	100.2091	3.363881
Glore, Forgan & Co.	3⅜	100.174	3.365746
Equitable Securities Corp.	3½	102.26	3.379550
Harriman Ripley & Co., Inc.	3½	102.2099	3.382183

[1] Exclusive of accrued interest from Apr. 1, 1951.

Said amendment further stating that Monongahela has accepted the bid of Union Securities Corp. and Salomon Bros. & Hutzler for the bonds, as set forth above, and that the bonds will be offered for sale to the public at a price of 101.625 percent of their principal amount plus accrued interest, resulting in an underwriters' spread of .54 percent of the principal amount aggregating $54,000; and

Said amendment also setting forth the expenses and fees incurred in connection with the proposed transactions including the following:

To be paid by Monongahela:	
Sullivan & Cromwell (legal services):	
For the bonds	$5,750
For the stock	100
Steptoe & Johnson (legal services)	350
Price Waterhouse & Co.	2,150
To be paid by the underwriters:	
Cahill, Gordon, Zachry & Reindel (legal services)	5,000
To be paid by West Penn Electric:	
Sullivan & Cromwell (legal services)	150

The Commission having examined said amendment and having considered the record herein and finding no reason for imposing terms and conditions with respect to said matter:

It is ordered, That the joint application-declaration, as further amended, be granted and permitted to become effective forthwith, and that the jurisdiction heretofore reserved over the issuance and sale of the bonds with respect to the results of competitive bidding, and over the fees and expenses incurred in connection with the proposed transactions, be, and the same hereby is, released, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-5022; Filed, May 1, 1951; 8:45 a. m.]

[File No. 70-2590]

PUBLIC SERVICE CO. OF OKLAHOMA

SUPPLEMENTAL ORDER GRANTING AND PERMITTING APPLICATION-DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 26th day of April A. D. 1951.

Public Service Company of Oklahoma ("Public Service"), a public utility subsidiary of Central and South West Corporation, a registered holding company, having filed an application-declaration, and an amendment thereto, pursuant to sections 6 (a) (2) and 6 (b) of the Public Utility Holding Company Act of 1935 ("act") and Rule U-50 promulgated thereunder, regarding, inter alia, the issuance and sale, at competitive bidding, of $10,000,000 principal amount of First Mortgage Bonds, Series C, -- percent, due 1981; and

The Commission, by order dated April 16, 1951, having granted the application and permitted the declaration to become effective, as amended, subject to the condition that the proposed issuance and sale of bonds should not be consummated until the results of competitive bidding, pursuant to Rule U-50, had been made a matter of record in this proceeding and a further order entered by the Commission in the light of the record so completed; and

Public Service, on April 26, 1951, having filed a further amendment to said application-declaration setting forth the action taken by it to comply with the requirements of Rule U-50, and stating that, pursuant to the invitation for competitive bids, the following bids for its bonds have been received:

Bidder	Annual interest rate (percent)	Price to company (percent) of principal[1]	Annual cost to company (percent)
Salomon Bros. & Hutzler	3⅛	98.934	3.18052
Halsey, Stuart & Co. Inc.	3⅛	98.881	3.18328
White, Weld & Co. and Shields & Co.	3⅛	98.789	3.18807
Kuhn, Loeb & Co.	3¼	101.176	3.18887
Glore, Forgan & Co.	3⅛	98.639	3.19588
Harriman Ripley & Co., Inc.	3⅛	98.43999	3.20038
The First Boston Corp.	3⅛	98.4099	3.20798

[1] Exclusive of accrued interest from Apr. 1, 1951.

Said amendment further stating that Public Service has accepted the bid of Salomon Bros. & Hutzler, as set out above, and that said bonds will be offered for sale to the public at a price of 99.709 percent of their principal amount, plus accrued interest from April 1, 1951, resulting in an underwriting spread of 0.775 percent of the principal amount of the bonds or an aggregate of $77,500; and

The Commission having examined said amendment and having considered the record herein and observing no basis for imposing terms and conditions with respect to the price to be received for said bonds, the interest rate thereon, the redemption prices thereof, or the underwriter's spread;

It is ordered, That the jurisdiction heretofore reserved with respect to the matters to be determined as a result of competitive bidding for said bonds be, and the same hereby is, released, and that said application-declaration, as further amended, be, and the same hereby is, granted and permitted to become effective, subject to the terms and conditions prescribed in Rule U-24.

It is further ordered, That this order shall become effective upon its issuance.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-5029; Filed, May 1, 1951; 8:47 a. m.]

[File No. 70-2599]

NORTHERN NATURAL GAS CO.

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 26th day of April 1951.

Northern Natural Gas Company ("Northern"), a registered holding company, having filed an application-declaration, and an amendment thereto, pursuant to sections 6 (a) and 7 of the Public Utility Holding Company Act of 1935 ("act"), with respect to the following transactions:

Northern has arranged a line of credit in the amount of $30,000,000 with a group of 8 commercial banks, pursuant to which it will issue and sell to such banks, from time to time but not later than March 22, 1952, a maximum of $30,000,000 principal amount of its promissory notes. Said notes will bear interest at the "prime rate" in effect at the time each note is issued and each note will mature on or before nine months from the date of its issue. Said notes may be prepaid at any time prior to maturity without penalty or premium.

Northern, pursuant to the exemption provided in section 6 (b) of the act, heretofore issued and sold on March 22, 1951, $5,100,000 principal amount of such notes and now proposes the issuance and sale of the balance of $24,900,000 principal amount of such notes, as above stated. The proceeds of the sale of the notes are to be utilized to defray, in part, the cost of Northern's construction program for the year 1951, which is estimated at approximately $60,000,000. Completion of the construction program is dependent on the availability of materials and certain other factors.

The long term financing of Northern's 1951 construction program will require the sale of securities to the public in the aggregate amount of approximately $51,000,000 which Nothern states will consist of debentures and common stock. The bank notes herein proposed will be repaid by Northern out of the proceeds of the sale of such securities.

Said application-declaration and the amendment thereto having been duly filed, and notice of said filing having

been given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for hearing with respect to said amended application-declaration within the period specified, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said amended application-declaration, that the requirements of the applicable provisions of the act are satisfied and that no adverse findings are necessary, and the Commission deeming it appropriate that said amended application-declaration, be granted and permitted to become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said amended application-declaration be, and the same hereby is, granted and permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-5027; Filed, May 1, 1951; 8:46 a. m.]

[File No. 70-2603]

MILWAUKEE SOLVAY COKE CO.

ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 26th day of April A. D. 1951.

Milwaukee Solvay Coke Company ("Coke Company"), a non-utility subsidiary of Milwaukee Gas Light Company, which in turn is a public utility subsidiary of American Natural Gas Company, a registered holding company, having filed an application pursuant to the provisions of section 6 (b) of the Public Utility Holding Company Act of 1935 ("act") for exemption from the provisions of section 6 (a) thereof of the issue and sale of notes to the First Wisconsin National Bank of Milwaukee and the Marine National Exchange Bank of Milwaukee in the aggregate amounts of $800,000 and $400,000, respectively, from time to time prior to December 31, 1951, such notes to be taken down in amounts of $300,000 or multiples thereof as funds are needed and to mature in the order of the dates of their creation in the amount of $300,000 on March 1st of each of the years 1953 through 1956, the notes maturing in 1953 and 1954 to bear interest at 3 percent per annum and the notes maturing in 1955 and 1956 to bear interest at 3¼ percent per annum, the proceeds from the sale of said notes to be applied by Coke Company to the expansion of its coke production facilities; and

Said application having been filed on March 29, 1951, and an amendment thereto having been filed on April 23, 1951, and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for hearing with respect to said application within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said application that the requirements of the applicable provisions of the act and rules thereunder are satisfied, and deeming it appropriate in the public interest and in the interest of investors and consumers that the said application be granted:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of said act, that the said application be, and hereby is, granted forthwith subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-5028; Filed, May 1, 1951; 8:46 a. m.]

[File No. 70-2607]

GRANITE STATE ELECTRIC CO.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 25th day of April A. D. 1951.

Notice is hereby given that Granite State Electric Company ("Granite State"), a subsidiary of New England Electric System, a registered holding company, has filed a declaration pursuant to the Public Utility Holding Company Act of 1935. Declarant has designated section 7 of the act as applicable to the proposed transactions.

Notice is further given that any person may, not later than May 7, 1951, at 5:30 p. m., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said declaration which he desires to controvert or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed to the Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time thereafter said declaration, as filed or as amended, may be permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said declaration which is on file in the office of the Commission, for a statement of the transactions therein proposed, which are summarized as follows:

Granite State proposes to issue to The First National Bank of Boston a promissory note in the principal amount of $250,000 due six months after the date of issue and bearing the prime rate of interest for such notes at the time of issuance. It is stated in said declaration that the company expects that such interest rate will not exceed 2¾ percent. In the event that the interest rate on the proposed note exceeds 2¾ percent per annum, Granite State will file an amendment to its declaration at least five days prior to the execution of said note and unless this Commission notifies Granite State to the contrary within said five day period, said amendment will be considered by Granite State to be effective at the end of such period.

Granite State proposes to use the proceeds from such borrowing to pay for construction through June 30, 1951, and to pay off its promissory notes presently outstanding in the aggregate principal amount of $190,000 and bearing interest at the rate of 2¼ percent per annum.

The declaration indicates that the expenses in connection with the proposed transactions, consisting of payments to be made to New England Power Service Company, an affiliated service company, for services to be performed at cost, are estimated not to exceed $600.

The declaration states that no state commission has jurisdiction over the proposed transactions.

Granite State requests that the Commission's order herein become effective forthwith upon issuance.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-5023; Filed, May 1, 1951; 8:46 a. m.]

[File No. 811-478]

TOBACCO PRODUCTS EXPORT CORP.

NOTICE OF APPLICATION AND OPPORTUNITY FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 26th day of April A. D. 1951.

Notice is hereby given that Tobacco Products Export Corporation (hereinafter referred to as the Applicant) has filed an application with this Commission requesting that the Commission issue an order pursuant to section 8 (f) of the Investment Company Act of 1940 (hereinafter referred to as the act) declaring the Applicant has ceased to be an investment company within the meaning of the act and that its registration under the act be terminated.

The Applicant requests this relief based upon the following reasons and facts:

The Applicant was organized under the laws of the State of New York on February 19, 1919; its principal office is located at No. 175 Fifth Avenue, New York, New York. Applicant is registered with this Commission as a closed-end management non-diversified investment company. This registration was effected on February 24, 1943 subsequent to a hearing and pursuant to an order issued by this Commission denying an application for exemption except that the Applicant was exempted from the provisions of section 8 (b) of the act and partially exempted from the requirements of subsections (b) and (d) of section 30 of the act to the extent that the Applicant was

not required to issue or file certain reports and statements required by those subsections more often than annually. At the time of Applicant's registration, it held 25,087 shares of common stock of Philip Morris & Company, Ltd., having a market value of approximately $1,398,600 and 30,400 shares of British-American Tobacco Company (China), Ltd., carried on Applicant's books at $1,500,000. The Commission's opinion recited that for a number of years these investment securities had constituted over 98 percent of Applicant's total assets and that income therefrom had constituted between 75 and 86 percent of its total net income.

The Applicant states that during 1947, pursuant to a vote of stockholders at a special meeting held November 27, 1946, all of the shares of Philip Morris stock held by the Applicant with the exception of five shares were distributed in kind to stockholders of the Applicant pro rata. Applicant has received no income from the shares of British-American Tobacco Company since 1941.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission in Washington, D. C.

Notice is further given that the Commission will issue an order, pursuant to section 8 (f) of the act, granting the application on or at any time after May 14, 1951, unless prior thereto a hearing upon the application is ordered by the Commission. Any interested person may submit to the Commission in writing not later than May 11, 1951, his views or any additional facts bearing upon the application or the desirability of a hearing thereon or a request to the Commission that a hearing be held thereon. Any such communication or request should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-5026; Filed, May 1, 1951; 8:46 a. m.]

[File No. 812-722]

SECURED UNDERWRITERS, INC.

NOTICE OF APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 26th day of April A. D. 1951.

Notice is hereby given that Secured Underwriters, Inc., a registered face amount certificate company, so registered by notification of registration duly filed, under the Investment Company Act of 1940, has filed an application pursuant to section 6 (c) of the Investment Company Act of 1940 for an order relieving said applicant from filing a registration statement on Form N-8B-4.

Unless relieved from so doing, the applicant must file a registration statement on Form N-8B-4 pursuant to the requirements of section 8 (b) and Rule N-8B-2 of the Investment Company Act of 1940 within ninety (90) days from January 31, 1951.

Applicant states, among other things, that it has not sold or offered for sale any face amount certificates since March 1941; that such certificates sold previous to said date began to mature in August 1950, and all maturity benefits have been and are being paid as and when they fall due; and that all remaining outstanding Trust Fund Certificates will mature during the year 1951, and it is not proposed, by the said applicant, to offer or issue any further face amount certificates, nor to continue any trust fund for any such face amount certificates.

All interested persons are referred to said application which is on file at the Washington, D. C., office of this Commission for a detailed statement of the matters of fact and law therein asserted.

Notice is further given that an order granting the application may be issued by the Commission at any time after the 10th day of May 1951, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in Rule N-5 of the rules and regulations promulgated under the act. Any interested person may, not later than the 10th day of May 1951, at 5:30 p. m., submit to the Commission in writing his views or any additional facts bearing upon this application or the desirability of a hearing thereon, or request the Commission in writing that a hearing be held thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington, D. C., and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-5024; Filed, May 1, 1951; 8:46 a. m.]

[File No. 813-14]

SCOTT PAPER CO. EMPLOYEES' STOCK PURCHASE PLAN

NOTICE OF APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of April A. D. 1951.

Notice is hereby given that Scott Paper Company (hereinafter sometimes referred to as Scott), of Chester, Pennsylvania, for itself and on behalf of Scott Paper Company Employees' Stock Purchase Plan (hereinafter sometimes referred to as Plan), an employees' security company, has filed an application pursuant to section 6 (b) of the Investment Company Act of 1940 for an order pursuant to said section of said act exempting said plan from the provisions of the act. The filing of said application exempts the plan from all provisions of the act, pending final determination of such application by the Commission, as provided by Rule N-6B-1 of the general rules and regulations under the Investment Company Act of 1940.

It appears from the application that the plan is an employees' security company, organized by Scott Paper Company, a Pennsylvania corporation, for the purpose of acquiring and distributing to the members of the plan Scott Paper Company common shares.

For many years it has been the policy of Scott to make available each year to its employees and employees of its subsidiary companies a stock purchase plan. It is the continuing year-to-year plan for which application for an exemption is made, and not just the plan for the year 1951 which is described in some detail hereinafter. Each yearly stock purchase plan is scheduled to operate for a specified number of consecutive weekly periods during the calendar year (42 weeks under the plan for 1951). Its operation usually commences in the first quarter of the year and terminates in November. Liquidation by distribution to employees participating as members is completed before the end of the calendar year.

Any employee in the service of Scott or its subsidiaries on the date when the yearly plan commences operation, except employees then classified as temporary, may become a member of the Plan by subscribing to it. Subscriptions authorize weekly payroll deductions, which may not exceed a designated percentage of the subscriber's weekly pay, for the period of operation of the yearly plan then being offered, and direct the deposit of such deductions to the member's credit under the yearly plan. Scott contributes to the credit of each such member an amount equal to a designated percentage, or percentages, of his deposits, such contributions being the net amount after deductions for all income, social security and other taxes or charges required to be withheld. Under the plan for 1951 each member's weekly deposit is limited to 10 percent of his weekly earnings, and the Scott contribution is a sum equal to 20 percent of that portion of each member's deposit up to $30 per week and 10 percent of any portion in excess of that amount.

Each yearly plan is administered by a Committee composed of designated employees of Scott. Under the plan for 1951 the Cashier, Controller and Treasurer of Scott are the designated employees.

The funds received from members' deposits and contributions from Scott are placed in a suitably designated separate bank account and are applied, generally as and when sufficient for the purchase of a hundred share lot, to the purchase of common shares of Scott Paper Company on the New York Stock Exchange or the Philadelphia-Baltimore Stock Exchange. The common shares so purchased are distributed to members upon

the liquidation of each yearly plan together with cash covering any distributive interest of a member, or balance of such interest, amounting to the value of less than one full common share.

Members may be permitted to withdraw their deposits on a written request to the Committee submitted prior to a specified date (September 15, 1951 under the plan for 1951).

The plan is subject to no load or service charge. Expenses of its operation are for the most part assumed by Scott, and those not assumed are negligible in amount.

All interested persons are referred to said application which is on file at the Washington, D. C., office of this Commission for a more detailed statement of the matters of fact and law therein asserted.

Notice is further given that an order granting the application may be issued by the Commission at any time after the 16th day of May 1951, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in Rule N-5 of the general rules and regulations promulgated under the act. Any interested person may not later than the 16th day of May 1951, at 5:30 p. m. submit to the Commission in writing his views or any additional facts bearing upon this application or the desirability of a hearing thereon, or request the Commission in writing that a hearing be held thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington, D. C., and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request and the issues of fact or law raised by the application which he desires to controvert.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 51-5025; Filed, May 1, 1951; 8:46 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 17667]

NATIONAL CITY BANK OF NEW YORK

In re: Accounts maintained in the name of The National City Bank of New York, Brussels, Belgium, and owned by persons whose names are unknown. F-7-2823.

Under the authority of the Trading With the Enemy Act, as amended, Executive Orders 9193, as amended, 9788 and 9989, and pursuant to law, after investigation, it is hereby found:

1. That the property described as follows: All property, rights and interests in the accounts identified in Exhibit A attached hereto and by reference made a part hereof, together with

(a) Any other property, rights and interests which represent accumulations or accruals to, changes in form of, or substitutions for, any of the property, rights and interests in said identified accounts on October 2, 1950, and which are now held in other accounts being maintained as blocked or otherwise subject to the restrictions of Executive Order 8389, as amended, or regulations, rulings, orders or instructions issued thereunder, and

(b) Any and all rights in, to and under any securities (including, without limitation, bonds, coupons, mortgage participation certificates, shares of stock, scrip and warrants) and any and all declared and unpaid dividends on any shares of stock in any of said accounts,

excepting from the foregoing, however, all lawful liens and setoffs of the respective institutions in the United States with whom the aforesaid accounts are maintained,

is property within the United States;

2. That the property described in subparagraph 1 hereof is owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or is evidence of ownership or control by persons, names unknown, who, if individuals, there is reasonable cause to believe are residents of a designated enemy country and which, if partnerships, associations, corporations, or other organizations, there is reasonable cause to believe are organized under the laws of a designated enemy country or on or since the effective date of Executive Order 8389, as amended, have had their principal places of business in a designated enemy country;

3. That the persons referred to in subparagraph 2 hereof are nationals of a designated enemy country;

and it is hereby determined:

4. That to the extent that the persons referred to in subparagraph 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended, and the term "designated enemy country" has reference to Germany or Japan.

Executed at Washington, D. C., on April 11, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

[Accounts maintained in the name of The National City Bank of New York, Brussels, Belgium]

Column I Name and address of institution which maintains account	Column II Designation of account
The National City Bank of New York, 55 Wall St., New York 5, N. Y.	(a) Current account, funds held for the payment of drafts advised and outstanding, as described by The National City Bank of New York in its report on form OAP-700 bearing its serial No. 0154. (b) Current account, funds held for the payment of drafts advised and outstanding, as described by The National City Bank of New York in its report on form OAP-700 bearing its Serial No. 0150. (c) Current account, funds held for the payment of drafts advised and outstanding, as described by The National City Bank of New York in its report on Form OAP-700 bearing its serial No. 0149.

[F. R. Doc. 51-5003; Filed, Apr. 30, 1951; 8:56 a. m.]

[Vesting Order 17668]

BOESCH & CO.

In re: Accounts maintained in the name of Boesch & Co., Lucerne, Switzerland, and owned by persons whose names are unknown. F-63-1773; A-1; E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Orders 9193, as amended, 9788 and 9989, and pursuant to law, after investigation, it is hereby found:

1. That the property described as follows: All property, rights and interests in the accounts identified in Exhibit A attached hereto and by reference made a part hereof, together with

(a) Any other property, rights and interests which represent accumulations or accruals to, changes in form of, or substitutions for, any of the property, rights and interests in said identified accounts on October 2, 1950, and which are now held in other accounts being maintained as blocked or otherwise subject to the restrictions of Executive Order 8389, as amended, or regulations, rulings, orders or instructions issued thereunder, and

(b) Any and all rights in, to and under any securities (including, without limitation, bonds, coupons, mortgage participation certificates, shares of stock, scrip and warrants) and any and all declared and unpaid dividends on any shares of stock in any of said accounts,

excepting from the foregoing, however, all lawful liens and setoffs of the respective institutions in the United States with whom the aforesaid accounts are maintained,

is property within the United States;

2. That the property described in subparagraph 1 hereof is owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or is evidence of ownership or control by persons, names unknown, who, if

individuals, there is reasonable cause to believe are residents of a designated enemy country and which, if partnerships, associations, corporations, or other organizations, there is reasonable cause to believe are organized under the laws of a designated enemy country or on or since the effective date of Executive Order 8389, as amended, have had their principal places of business in a designated enemy country;

3. That the persons referred to in subparagraph 2 hereof are nationals of a designated enemy country;

and it is hereby determined:

4. That to the extent that the persons referred to in subparagraph 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended, and the term "designated enemy country" has reference to Germany or Japan.

Executed at Washington, D. C., on April 11, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

[Accounts maintained in the name of Boesch & Co., Lucerne, Switzerland]

Column I Name and address of institution which maintains account	Column II Designation of account
Brown Bros. Harriman & Co., 59 Wall St., New York 5, N. Y.	(a) Boesch & Co., Lucerne, Switzerland, general ruling No. 6 account, as described by Brown Bros. Harriman & Co. in its report on Form OAP-700 bearing its Serial No. 20. (b) Boesch & Co., Lucerne, Switzerland, ordinary account, blocked account, as described by Brown Bros. Harriman & Co., in its report on Form OAP-700 bearing its Serial No. 21.

[F. R. Doc. 51-5004; Filed, Apr. 30, 1951; 8:57 a. m.]

[Vesting Order 17672]

STOCKHOLMS ENSKILDA BANK AKTIEBOLAG

In re: Accounts maintained in the name of Stockholms Enskilda Bank Aktiebolag, Stockholm, Sweden, and owned by persons whose names are unknown. F-62-472.

Under the authority of the Trading With the Enemy Act, as amended, Executive Orders 9193, as amended, 9788 and 9989, and pursuant to law, after investigation, it is hereby found:

1. That the property described as follows: All property, rights and interests in the accounts identified in Exhibit A set forth below and by reference made a part hereof, together with

(a) Any other property, rights and interests which represent accumulations or accruals to, changes in form of, or substitutions for, any of the property, rights and interests in said identified accounts on October 2, 1950, and which are now held in other accounts being maintained as blocked or otherwise subject to the restrictions of Executive Order 8389, as amended, or regulations, rulings, orders or instructions issued thereunder, and

(b) Any and all rights in, to and under any securities (including, without limitation, bonds, coupons, mortgage participation certificates, shares of stock, scrip and warrants) and any and all declared and unpaid dividends on any shares of stock in any of said accounts,

excepting from the foregoing, however, all lawful liens and setoffs of the respective institutions in the United States with whom the aforesaid accounts are maintained,

is property within the United States;

2. That the property described in subparagraph 1 hereof is owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or is evidence of ownership or control by persons, names unknown, who, if individuals, there is reasonable cause to believe are residents of a designated enemy country and which, if partnerships, associations, corporations, or other organizations, there is reasonable cause to believe are organized under the laws of a designated enemy country or on or since the effective date of Executive Order 8389, as amended, have had their principal places of business in a designated enemy country;

3. That the persons referred to in subparagraph 2 hereof are nationals of a designated enemy country;

and it is hereby determined:

4. That to the extent that the persons referred to in subparagraph 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended, and the term "designated enemy country" has reference to Germany or Japan.

Executed at Washington, D. C., on April 11, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

[Accounts maintained in the name of Stockholms Enskilda Bank Aktiebolag, Stockholm, Sweden]

Column I Name and address of institution which maintains account	Column II Designation of account
J. & W. Seligman & Co., 65 Broadway, New York 6, N. Y.	Foreign bonds payable in dollars, as described by J. & W. Seligman & Co. in its report on Form OAP-700 bearing its Serial No. 8.

[F. R. Doc. 51-5056; Filed, May 1, 1951; 8:51 a. m.]

[Vesting Order 17673]

STOCKHOLMS ENSKILDA BANK A. B.

In re: Accounts maintained in the name of Stockholms Enskilda Bank A. B., Stockholm, Sweden, and owned by persons whose names are unknown. F-62-472.

Under the authority of the Trading With the Enemy Act, as amended, Executive Orders 9193, as amended, 9788 and 9989, and pursuant to law, after investigation, it is hereby found:

1. That the property described as follows: All property, rights and interests in the accounts identified in Exhibit A set forth below and by reference made a part hereof, together with

(a) Any other property, rights and interests which represent accumulations or accruals to, changes in form of, or substitutions for, any of the property, rights and interests in said identified accounts on October 2, 1950, and which are now held in other accounts being maintained as blocked or otherwise subject to the restrictions of Executive Order 8389, as amended, or regulations, rulings, orders or instructions issued thereunder, and

(b) Any and all rights in, to and under any securities (including, without limitation, bonds, coupons, mortgage participation certificates, shares of stock, scrip and warrants) and any and all declared and unpaid dividends on any shares of stock in any of said accounts,

excepting from the foregoing, however, all property, rights and interests which are expressly excluded in the attached Exhibit A, and all lawful liens and setoffs of the respective institutions in the United States with whom the aforesaid accounts are maintained,

is property within the United States;

2. That the property described in subparagraph 1 hereof is owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or is evidence of ownership or con-

trol by persons, names unknown, who, if individuals, there is reasonable cause to believe are residents of a designated enemy country and which, if partnerships, associations, corporations, or other organizations, there is reasonable cause to believe are organized under the laws of a designated enemy country or on or since the effective date of Executive Order 8389, as amended, have had their principal places of business in a designated enemy country;

3. That the persons referred to in subparagraph 2 hereof are nationals of a designated enemy country;

and it is hereby determined:

4. That to the extent that the persons referred to in subparagraph 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended, and the term "designated enemy country" has reference to Germany or Japan.

Executed at Washington, D. C., on April 11, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

[Accounts maintained in the name of Stockholms Enskilda Bank A. B., Stockholm, Sweden]

Column I Name and address of institution which maintains account	Column II Designation of account	Column III Property, rights and interests in the account as of Oct. 2, 1950, excluded from this vesting order [1]
Brown Bros. Harriman & Co., 59 Wall St., New York 5, N. Y.	Stockholms Enskilda Bank A. B., Stockholm, special account "U" general ruling No. 6 account, as described by Brown Bros. Harriman & Co. in its report on Form OAP-700 bearing its Serial No. 82.	$2,107.32 which, according to the supplement, dated Nov. 28, 1950, to the report on Form OAP-700 filed by Brown Bros. Harriman & Co., bearing its Serial No. 82 is owned by Count Moritz Esterhazy.

[1] Also excluded from this vesting order are (a) any accumulations or accruals to, changes in form of, or substitutions for, any such property, rights and interests, since Oct. 2, 1950 and (b) any and all rights in, to and under any securities (including, without limitation, bonds, coupons, mortgage participation certificates, shares of stock, scrip and warrants), and any and all declared and unpaid dividends on any shares of stock, listed in Column III or excluded under (a) of this footnote.

[F. R. Doc. 51-5057; Filed, May 1, 1951; 8:51 a. m.]

[Vesting Order 17688]

SHINICHI MINAMI

In re: Cash owned by Shinichi Minami. F-39-6993.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Shinichi Minami, whose last known address is 160 Kirimemura, Hidake-gun, Wakayama-ken, Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the property described as follows: Cash, in the amount of $417.95, presently in the possession of the Treasury Department of the United States in Trust Fund Account, Symbol 158881, "Unclaimed Monies of Individuals Whose Whereabouts Are Unknown", in the name of Shinichi Minami and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 18, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-5058; Filed, May 1, 1951; 8:51 a. m.]

[Vesting Order 17689]

SEIICHI TANJI

In re: Cash owned by Seiichi Tanji. F-39-6994.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Seiichi Tanji, whose last known address is 29 Shinden Kamitoriwata, Torikawa-mura, Shinobu-gun, Fukushima-ken, Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the property described as follows: Cash, in the amount of $258.80, presently in the possession of the Treasury Department of the United States in Trust Fund Account, Symbol 158881, "Unclaimed Monies of Individuals Whose Whereabouts are Unknown", in the name of Seiichi Tanji, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Seiichi Tanji, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 18, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-5059; Filed, May 1, 1951; 8:51 a. m.]

[Return Order 944]

ALBERTO BALDOCCHI ET AL.

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the

administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim Nos., Notice of Intention To Return Published, and Property

Alberto Baldocchi, Lucca per Parezzana, Toscana, Italy, Claim No. 13055; Anna Fedeli, Lucca per Toringo, Toscana, Italy, Claim No. 13081; Lola Fedeli Mori, Antioch, California, Claim No. 13082; Marino Fedeli, Lucca per Toringo, Toscana, Italy, Claim No. 13083; Renzo Fedeli, Lucca per Toringo, Toscana, Italy, Claim No. 13084; Veneranda Giovannoni, Lucca per Sorbano del Vescovo, Toscana, Italy, Claim No. 13085; March 8, 1951 (16 F. R. 2178); $3,748.99 in the Treasury of the United States, 1/3 to Alberto Baldocchi, 1/3 to Veneranda Giovannoni, 1/12 to Anna Fedeli, 1/12 to Lola Fedeli Mori, 1/12 to Marino Fedeli and 1/12 to Renzo Fedeli. The right, title and interest of the claimants in and to the trust created under the will of Luigi Baldocchi, deceased; trust administered by Bank of America National Trust and Savings Association, San Francisco, California.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on April 25, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-5060; Filed, May 1, 1951; 8:52 a. m.]

[Return Order 945]

WALLACE M. LARSON AND J. R. JOHANSSON

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Notice of Intention To Return Published, and Property

Wallace M. Larson and J. R. Johansson, Tokyo, Japan; Claim No. 2188; February 17, 1951 (16 F. R. 1702); $2,419.52 in the Treasury of the United States.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on April 25, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-5005; Filed, Apr. 30, 1951; 8:57 a. m.]

SOCIETE NOBEL FRANCAISE

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Societe Nobel Francaise, Paris, France; Claim No. 43869; property described in Vesting Order No. 666 (8 F. R. 5047, April 17, 1943) relating to United States Letters Patent Nos. 2,105,208; 2,211,266 and 2,245,123.

Executed at Washington, D. C., on April 25, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-5006; Filed, Apr. 30, 1951; 8:57 a. m.]

GEORGES SAUERWEIN

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Georges Sauerwein, Paris, France; Claim No. 30288; property described in Vesting Order No. 666 (8 F. R. 5047, April 17, 1943) relating to United States Letters Patent No. 2,230,655.

Executed at Washington, D. C., on April 25, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-5007; Filed, Apr. 30, 1951; 8:57 a. m.]

ELSA KLIER ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Elsa Klier, Georg Lorenz Klier, Oskar Klier, Hof on the Saale, Germany; Else Kunzel, nee Klier, Hanau on the Main, Germany; Claim No. 40906; returnable to Elsa Klier: $10,054.32 in the Treasury of the United States and her interest in the estate and the trust created under the Will of Oskar Ludwig, deceased; returnable to the other claimants in equal shares: The interest of the issue of Elsa Klier in the said estate and trust.

Executed at Washington, D. C., on April 25, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-5008; Filed, Apr. 30, 1951; 8:58 a. m.]